SENATE—*Tuesday, July 21, 1998*

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, our morning prayer is like being amazed by deposits in our checking account from unexpected sources. We are astounded by Your goodness. You know what we will need for today and You deposit the required amounts of insight, discernment, and vision in our minds. You fill the wells of our hearts to overflowing with the added courage and determination that are necessary for the demands of today. Even now, we feel fresh strength as Your Spirit energizes our bodies. We should not be surprised. You have promised that, "As your days, so shall your strength be."—Deuteronomy 33:25.

Bless the women and men of this Senate and all who work with and for them that this will be a day in which we draw on Your limitless resources for dynamic leadership. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. BOND. Good morning, Mr. President.

SCHEDULE

Mr. BOND. Mr. President, this morning, there will be a period for the transaction of morning business until 10 a.m. Following morning business, the Senate will vote on the motion to invoke cloture on the legislative branch appropriations bill. After disposition of the legislative branch bill, the Senate will resume consideration of the Commerce-Justice-State appropriations bill. The majority leader has indicated that he is hopeful that Members will come to the floor during today's session to offer and debate amendments as the Senate attempts to make good progress on the Commerce-Justice-State bill. The Senate may also consider any other legislative or executive items that may be cleared for action.

ORDER FOR RECESS

Mr. BOND. Mr. President, I ask unanimous consent that the Senate stand in recess from 12:30 p.m. until 2:15 p.m. to allow the weekly party caucuses to meet.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BOND. Seeing no other Members wishing to speak, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOND). Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now be in a period of morning business.

Mr. REED. Mr. President, I ask unanimous consent to speak in morning business for 5 minutes of the time allocated to Senator DORGAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Thank you, Mr. President.

NOMINATION OF JAMES HORMEL

Mr. REED. Mr. President, I rise this morning to speak briefly on the nomination of Mr. James Hormel to be the United States Ambassador to Luxembourg.

Mr. Hormel has a distinguished record as a businessperson, as a lawyer, as a former dean of the University of Chicago Law School, and as a philanthropist. His family owns one of the largest agriculture companies in our country.

He has, throughout his distinguished career, been a contributor and supporter of many worthy organizations. His philanthropy is well known throughout the United States. He has contributed significantly to the Catholic Youth Organization, to the United Negro College Fund, Swarthmore College, Breast Cancer Action, and to many, many other associations. He has also served as the alternate representative to the United Nations General Assembly on behalf of our country, the United States of America.

Mr. Hormel's nomination was favorably reported out by the Committee on Foreign Relations and is widely supported here in the U.S. Senate.

Indeed, hundreds of distinguished Americans have favorably commented on his nomination, and they have stated that Mr. Hormel has the ability and skills to successfully represent the United States in Luxembourg.

Now, there are many who are watching this proceeding who would ask, given all these qualifications, why would Mr. Hormel be denied a vote on his nomination to be Ambassador to Luxembourg? The simple answer comes down to the fact of Mr. Hormel's sexual orientation.

There are many—the vast majority of Americans and the vast majority of Senators—who feel that this is irrelevant to the duties that he will perform as Ambassador to Luxembourg, and we should look not to his sexual orientation, but to his record of achievement and to his ability and to his responsibilities throughout his career in terms of advancing not his personal agenda, but in fact serving well both the institutions he represented, such as the University of Chicago, and many, many philanthropic activities which he has been involved in.

But there are some in this Chamber who I fear would rather not have an Ambassador, but would rather have a political issue. My preference is to have an Ambassador serving the United States with distinction in Luxembourg. And I believe Mr. Hormel will do that.

Mr. President, the Providence Journal newspaper in my home State of Rhode Island put it best when they headlined the editorial by simply saying "Vote on Hormel."

Mr. Hormel does not want this ambassadorship as a pulpit to advance any agenda. What he wants to do is represent our country with distinction and great diligence. I believe he will do that.

In his own words, in a letter to Senator GORDON SMITH, our colleague, he said:

> I will not use, nor do I think it appropriate to use, the office of ambassador to advocate any personal views I may hold on any issue. . . . I assure you that my public positions will be those of the U.S. Government.

I believe that however one feels about Mr. Hormel's qualifications, this institution deserves to give him a vote, to give him an opportunity to have his case decided openly here on the floor of this Chamber, allowing individual Senators to make whatever point they may choose to make about his qualifications, about his potential to serve. But to deny him his vote, I think, is to deny not only one individual but this country the opportunity to make a decision about his qualifications to serve.

I hope that we can quickly bring his nomination to the floor for a vote and then let the will of the majority prevail. I believe it is wrong and unfortunate that we retain this nomination and not allow it to come to the floor

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

for the vote. I hope in the days ahead we will vote on Mr. Hormel and we will vote favorably.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent to be permitted to yield myself 10 minutes of the time of Senator DORGAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. KERRY. Mr. President, countless Americans have come to understand that the health care system in this country is in a total state of disarray, if not crisis. It is a crisis of confidence. It is a crisis of coverage, bought and paid for with hard-earned dollars from our fellow taxpayers, but a coverage that seems to disappear when you need it the most.

Our fellow citizens no longer believe that their insurance companies are prepared to provide them with the quality of service or the choice of doctors that they were promised or that they paid for with their premiums. Some health insurers have put saving costs way ahead of the prospect of saving lives.

I think most people in the Senate have come to understand the nature of this crisis. The impact of the decisions of the insurance companies in countless stories across America and across my State of Massachusetts is immeasurable. Americans are suffering because the system puts the choices of the insurance company administrator far ahead of the choice of a doctor.

The story of Ellen O'Malley, a mother of two, from Canton, MA, underscores the full measure of the problem that we face today. Ellen passed away in the summer of 1994, a victim of breast cancer at the age of 38. Her husband, Steve, a schoolteacher in Canton, and her two daughters, could tell anybody in the Senate about the trouble that people face today as a result of the way in which choices are made for the delivery of health care. They could also tell you about the struggle of what it is like to live without a mother and wife. I think all of us understand that happens and that there are sometimes unavoidable consequences of some diseases. But clearly there are totally avoidable consequences of what kind of care is delivered to somebody in the course of an illness.

The O'Malley family's story is even more tragic than the loss of Ellen because they would tell every Senator about the new language that they learned, the experience that they went through, as a consequence of her illness—a vocabulary of the HMOs. Ellen O'Malley should not have had to spend her last year of life jumping through bureaucratic hoops just to get treatment for breast cancer. She shouldn't have had to be shuttled around the city of Boston from one hospital to another hospital, from one doctor to another doctor, because an HMO refused to take the word of her own family doctor or her oncologist. Ellen O'Malley was very, very brave in facing the struggle with a killer disease. She should not have been asked to be brave in facing a different struggle with the bureaucracy.

The simple fact is that health insurers should not make the decisions that are fundamentally the decision of a doctor or a trained health care professional. The truth is that in times of family crisis, people should not have to worry about whether or not a bureaucrat is going to allow them to be able to see a doctor in whom they have placed trust. That is precisely the kind of turmoil that Ellen O'Malley suffered every single day of her illness.

Steve O'Malley remembers his wife hearing the promises from their HMO when they were signing up, promising that she would undergo care with her doctor, Dr. Erban, who had treated her for the past 10 years, and the promise that she would be able to continue to be treated at the New England Medical Center.

But the O'Malleys found that when push came to shove, when it came time for the promise to be delivered on, the promise disappeared. Steve O'Malley knows full well about an HMO that sent Ellen all over the city, to one hospital for a mammogram, to another hospital for a biopsy, and to still another hospital for treatment. Steve O'Malley remembers hours spent painstakingly writing lengthy appeal letters to the HMO, begging them to reconsider their decisions. He also remembers what it felt like to receive a 5-line form letter rejecting his wife's appeal.

Steve would tell you that the personal and painful decisions for his family were merely business decisions for the HMO, and that is unacceptable. It is unacceptable for the O'Malleys, as Steve remembers his late wife saying, "HMOs are great unless you're sick. They're fine if you have a cold, get the flu, break your arm, or stub your toe, but they are not fine if you're dying."

Steve and Ellen O'Malley and their two daughter suffered an enormous personal tragedy when breast cancer dashed their hopes and dreams for the future. I believe they should have been able, as a family, to endure that tragedy secure in the knowledge that Ellen could make her medical decisions side by side with the doctor she trusted—not a bureaucrat who never went to medical school and, more importantly, never knew Ellen O'Malley.

I believe that no HMO should rob a family of peace of mind in times of crisis. HMOs should be more than organizations that are great unless you are sick. For every person who buys into an insurance program, there ought to be the confidence that the coverage that you buy is the coverage that you will get. That is why we have proposed the Patients' Bill of Rights. We recognize we have built a system that currently puts paperwork ahead of patients and ignores the real life-and-death decisions being made in our health care system. We have to do better.

All across Massachusetts, I hear from people who are angry at how hard it is to find the health care that they believe they have purchased. And they are frustrated with policies that say that our elderly can't go to the doctor of their choice. They are convinced their HMOs don't give them straight answers about their coverage, and working families across the country believe it is time to take decisions out of the hands of the insurance companies and put them back with patients and doctors where they belong.

The U.S. Senate should agree with them. I believe it is vital for us to take up and pass meaningful patient protections now, in this Congress. There are judges all across the country who have watched in their courts as patients and families, victimized by HMOs, come before them, to beg for restitution, for a fair shake in getting the health care they were promised in the terms of the policy that they purchased. Those judges were helpless because they didn't write the laws that limit the ability of working families to appeal the decisions by HMOs.

In Boston, we have a U.S. district judge, William Young, a Reagan appointee to the bench, who ruled on an HMO case not very long ago.

Judge Young knew the law and he knew that insurers could, in our current structure, put paperwork and profit ahead of patients. He knew he could send a message to those of us who write the laws in this country. That is why he wrote in his highly publicized decision in Clarke v. Baldplate Hospital that "while the insurer's conduct is extraordinarily troubling, even more disturbing to the court is the failure of Congress to amend the laws." Judge Young was challenging us to act on behalf of hundreds of thousands of families left unprotected today. He had never met Ellen O'Malley, but he challenged the Congress of the United States to stand up for her.

Mr. President, we have the Patients' Bill of Rights, S. 1890, which would prevent senseless tragedies in the health care system from happening. Under our plan, Ellen O'Malley would have been able to immediately appeal her insurer's rejection of her doctor's prescribed treatment. Under our plan, the decision of Ellen O'Malley's doctors would have come first in the insurer's decisions. There is little, obviously, we can do for the O'Malley family, except to perhaps in her memory pass a bill that will change the way in which all of

these choices are made in the future. We could pass a Patients' Bill of Rights. The clock is ticking. I hope this Congress will do so in the next days.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Missouri is recognized.

Under the previous order, there are 22 minutes remaining on the time that was equally divided by a previous order.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that we be able to speak until 10 o'clock on the issue of the marriage penalty.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELIMINATION OF THE MARRIAGE PENALTY

Mr. ASHCROFT. Mr. President, we are here this morning—myself and several other Senators—because the American people should experience a tax cut before Congress gets its funding for the year.

We are here this morning to oppose cloture on the legislative branch appropriations bill. On Friday, Senator BROWNBACK of Kansas, and I attempted to enter into an agreement to offer the marriage penalty elimination amendment to the legislative appropriations measure.

Marriage penalty elimination means that we simply want to stop penalizing people, tax-wise, because they are married. A cloture motion was filed because the Democrats would not allow us to offer that amendment to this bill. Therefore, a vote against cloture is a vote for eliminating the marriage penalty tax. If we are not going to be able to offer this amendment to the bill, we will be back on other pieces of legislation, because this issue of providing equity to people who are married, and returning the hard-earned money of American taxpayers is too important to ignore.

In 1948, President Harry Truman called the Republicans in Washington a "do-nothing Congress." Now the President and Senate Democrats are resurrecting Truman's phrase. I don't worry about being called a "do-nothing Congress." We have done plenty of things. But if we tried to do nothing about taxes, that label just might stick.

Last April, a group of like-minded Senators and I stated our intentions to oppose the Senate budget resolution unless meaningful tax cuts were included. We were promised that eliminating the marriage penalty would be the Senate's top tax priority for 1998. Mr. President, today, the 21st day of July, there are less than 40 legislative days left in this session of the Congress; yet, we are no closer to giving the American people the tax cuts than we were 3 months ago.

We stand here in mid- to late-July with the real possibility that Congress will not pass a budget reconciliation and will not deliver on the tax cut promise that was made to the American people. I think we ought to put this into context. This isn't a situation where cutting taxes would be a strain or be difficult. To add insult to injury, last week the Congressional Budget Office indicated that there would be $520 billion of surplus over the next 5 years. Now, the $520 billion of surplus over the next 5 years would be $63 billion of surplus in this year alone.

We have not asked for the Moon. We have asked for a modest opportunity to cut and eliminate the marriage penalty. It would not take $520 billion. It would not take $420 billion. It would not take $320 billion. It would not take $220 billion. It would take about $1 out of every $5 that is to be provided in surplus, according to the Congressional Budget Office. So we are just asking that the American people have the opportunity to have, in return, $1 out of every $5 of surplus. This isn't asking that we have massive, Draconian cuts, or that we displace some Government program—although there are plenty of Government programs I would be happy to seek to displace. We are merely saying that, over the course of the next 5 years, some fraction—a minority fraction, as a matter of fact, not the major portion of it—of this rather substantial surplus be devoted to providing equity on the part of our taxation program, which is an insult to the values of America. I don't know of anyplace in the country you could go, or any group of individuals you could talk to that would not tell you that the families of America are simply fundamental, that if we have strong families in the next century, we are very likely to have a strong country. If we don't have strong families, it is going to be very difficult for our country to survive.

I believe that when moms and dads, as families, do their job, governing America is easy. If moms and dads can't do their jobs, if we pull the rug out from under families and make it tough for them, governing America could well be impossible. The truth of the matter is that families mean more to America than Government means to America, because the fundamental restraints of a culture, the values and precepts, are taught in families.

Government can try to do all those things. We have tried to replace families with Government before. The tremendous failure of the social experiment called the "Great Society" of the 1960s and 1970s told us that checks and Government programs weren't substitutes for moms and dads. They didn't work. What we need to do is make it possible for the culture to survive and to thrive, for the culture to prevail and to stop penalizing the most important institution in the culture—the family. Durable marriages and strong families are absolutely necessary if we are to succeed in the 21st century.

Starting in the sixties is when the marriage penalty became prevalent. For about 30 years, we have systematically penalized millions of people. The truth of the matter is that there are 21 million couples—about 42 million taxpayers—who collectively have paid $29 billion. It is so easy to forget how much money a billion dollars is. A billion dollars is a thousand millions. Now, these 42 million taxpayers have collectively paid "29-thousand-million-dollars" more than they would have paid had they been single. That is an average marriage penalty of about $1,400 per family. Think of that. We go into a family and, simply because the mom and dad happen to be married instead of single, we take $1,400 off their table; we take $1,400 out of that family's budget. These are not pretax dollars, these are aftertax dollars. It would go right to the bottom line.

Think of what a family could do with an extra $130 or $125 a month. Think of what it means to the family, the capacity of that family to fend for itself and to be able to survive as a family. We are attacking that family. The policy of America is attacking the principles of the American people. And it's easy. We can do it. CBO has told us that we are going to have five times as much money, or four times as much—a lot more money—well, $520 billion extra. We said we have to have a minimum $101 billion to begin this relief. That is five times as much as we have asked for. Yet, we are so focused on providing for the Congress, so focused on providing for the legislative branch, and we are ignoring the people of America. The families of America are more important than the legislative branch of Government.

As much as I think our country needs the House and Senate, why we should provide all the funding the House and Senate need and not provide any of the relief that we have promised to the American family, why we should continue to attack the American family, is beyond me. Discriminating against Americans who wish to engage in marriage is—well, it is just against everything we stand for.

The penalizing of income at the median- and lower-income levels is greatest for married households with dependent children. The obligation to file a combined income means that the one spouse working to earn the second half of the income is working largely to feed Government coffers. Often the couple would pay a lower percentage of their income to the Government if one of its spouses was not employed outside the home. The marriage penalty is a grossly unfair assault on the bedrock of our civilization—married couples.

Does the Tax Code really influence people's moral decisions to prevent couples from getting married? Unfortunately, there are individuals who simply have gotten divorced, set aside their marriages, in order to avoid the penalty that we impose for being married. Some couples even divorce and remarry to avoid paying the penalty.

The Senator from Kansas brought up an example last week of two economists who divorce and remarry every year to avoid paying the higher taxes. The facts point to tragic instances of where couples simply cannot afford to get married because the Government is going to charge them $1,400 for the privilege of being married. Sharon Mallory and Darryl Pierce of Connorsville, IN, were ready to get married when they learned from their accountant that it would cost them $3,700 more a year. The amount results from the forfeiting of a tax refund check of $900 and an additional $2,700 to be owed to the IRS as a married couple. A growing number of married couples are in a similar position according to a recent study by the nonpartisan Congressional Budget Office.

(Mr. SMITH of Oregon assumed the Chair.)

Mr. ASHCROFT. Now, the incentive effects of the current Tax Code were not intentional. I have to say this. I do not believe that the Congress ever set out——

Mr. BROWNBACK. Mr. President, will my colleague from Missouri yield for a question?

Mr. ASHCROFT. I would be most pleased to yield for a question from my colleague from Kansas.

Mr. BROWNBACK. Last week when we put forward this notion of doing away with the marriage penalty, one of my Democrat colleagues said, "I would be willing to do that if you offset it by doing away with the marriage bonus." He raised the question of the marriage bonus in the Tax Code. I told him I am not about raising taxes. But I wonder if the Senator has thought about this issue. Is there a marriage bonus that is in the Tax Code? Is that something that should be addressed?

Mr. ASHCROFT. Our Tax Code has and still operates in some instances to allow combining, by having a joint return, combined return, to have a lower tax for married people, and that really results from the conscious decision we make to recognize the value to our culture of a stay-at-home spouse. It focuses attention on the children and says we ought to give some benefit taxwise for doing that. And you do that by allowing the spouse who works to attribute some income to the stay-at-home spouse.

I don't think there are very many of us who are married who, when one or the other has had to stay at home, doesn't realize that the one who focuses on the homeplace and undertakes that responsibility is really responsible for income and is responsible for the benefit of the family.

I believe that the ability to split the income so that you get to the lowest tax bracket is something that should be provided to everybody in marriage. I wouldn't call it a bonus as if it were giving something out. It is a recognition of the value of the spouse who stays at home and the contribution that spouse makes, not only to the marriage and to the family but the contribution they make to the country.

Most of the data we are seeing now about children—and I am sure my friend from Kansas agrees with this data and has witnessed the articles and all the expounding—indicate that when one of the spouses can stay at home and spend a lot of time with the children, it is a big investment in the children and it results in children having lower incidences of bad health and lower incidences of school failure, dropout, lower incidences of juvenile delinquency and all. So that kind of attention from the family really is a social benefit to the entire culture, because if there are fewer dropouts, it means that your education system works better; if there is better health, it means the cost of the benefits of the health providers are lower; and if there is lower juvenile delinquency, it certainly means we benefit.

Mr. BROWNBACK. If my colleague will yield for another question, it seems the bonus is to America; it is not necessarily to the married couple that we are talking about in this.

The other thing I would ask my colleague about is, the marriage penalty that we are talking about affects nearly 21 million American families, most of them young, starting families. These are all families that make between $20,000 and $70,000 a year. They are two-wage-earner families. So you are really talking about that group of young Americans just getting started, both working, both struggling, both trying to make this family go, and we actually penalize them on an average of $1,400 per year. My colleague is familiar with that. Also, this is a relatively new tax. We have only put it on since 1969. That was the year of Woodstock. I don't know if there is a significance to any of that, but perhaps this is now the time that we should get away from that sort of penalty.

I just was curious; I know my colleague knows of those statistics and the importance of trying to help those struggling young families that are just now getting a foundation started for their families.

Mr. ASHCROFT. I am aware of that. I thank the Senator from Kansas for the question. I am desperately aware of it. This is the time when the stress on families is the hardest. If you look at the things that break up families, if you go to data that tells us whether or not a family is going to make it past the threshold and be able to persist as a strong family with the kind of durability that has the capacity to really help our culture with the lasting relationships of support that families bring, one of the biggest items is financial problems.

So here we have tender families at the very beginning, when they are struggling, they have kids, they are torn between responsibilities at the homeplace and the workplace, and what do we do? Instead of easing that financial burden, we zero in. It is almost like these families are staggering under the load they are bearing, because children are expensive, we know that—it costs a lot of money to clothe them, feed them, provide for them—and as they are struggling under that load, we come in and take another $1,400 a year off their table, out of their budgets, out of their capacity to provide for their children.

It is an anomaly. It certainly wasn't something that I think the Congress ever intended. I have absolutely every faith the Congress of the United States did not intend to hurt families with the Tax Code. But it has kind of grown this way, and here is where we are. The question is not what we intended. The question is what we are going to do about this. Are we going to, at a time of $520 billion of surplus, decide we would rather feed the bureaucracy than relieve the families of America of this burden? That is plain and simple. Are we going to have new programs and more Government or are we going to have stronger families with less tax burden?

Mr. BROWNBACK. If my colleague will yield, I would also note the individuals who have contacted various offices around here signing on to this very issue. This is a lady from Indiana who said this:

> I can't tell you how disgusted we both are over this tax issue. If we get married, not only would I forfeit my $900 refund check, we would be writing a check to the IRS for $2,800. Darryl and I would very much like to be married, and I must say it broke our hearts when we found out we can't afford to get married.

This is from Indiana.

This gentleman from Ohio said:

> I have been engaged to be married. My fiancee and I have discussed the fact we will be penalized financially. We have postponed the date of our marriage in order to save up and have a running start in part because of this nasty unfair tax structure.

Those are just two. And I have a number of other letters of people saying: "What is this? You guys are talking about family values and you penalize us for getting married." And particularly the youngest couples just getting started.

All we are asking for today is to let us vote on this issue, and we are being blocked. I am asking people not to vote

for this cloture motion, in order that we can vote to do away with this extraordinarily bad tax that is taxing those fundamental family-building units, the marriage institution that we need so much to be so much stronger.

Mr. ASHCROFT. I have to answer the question of the Senator from Kansas in the affirmative. I understand that. I am aware of it, and I really think that we have a chance to say to the American people: Look, we want to give you a wedding present. We would like to say to you that we are no longer going to make it tough on you if you do the most important thing to sustain this culture in the time to come.

I am a little distressed that this body does not want to let us confront that issue—I mean, there are Members of the body who do not—and that cloture would keep us from being able to make a priority the well-being of America's families, so we do not take care of ourselves in the legislative appropriations bill and ignore the families of America with the elimination of the marriage penalty tax. I hope Members of this body will vote against cloture. Let us vote so we have the possibility of addressing the needs of American families.

I, for one, commend the Senator from Kansas for his outstanding effort in this respect. At some point we simply have to stop business as usual, continuing to tax these families, taking an average of $1,400 a year off their tables, out of their budgets. When they sit down to figure out, "What can we spend this year," $1,400 is more than a vacation. Lots of families can take a little time off. But it may be school books, it may be school clothing, it may have to do with whether they can—well, I am sure there are many things that individuals look at, for $1,400 a year.

It is time for us simply to say: Before we continue to balloon Government, before we consume this $520 billion surplus, before we rush to governmentalize that, we should say at least some portion of this, a modest portion, far less than half, far less than a third, could sustain total relief for America's families by eliminating the marriage penalty—and it ought to be done. It should provide individuals the opportunity to say, "We will be married, we will have durable families," and it should stop taking from families who are staggering under the tax load, it should stop those families from being further injured when the Government comes and says, "We simply think we are more important than you are," especially as it relates to the surplus money that is supposed to be here—as a result of the hard work of the American people. I started to say this money is coming as a result of the Congressional Budget Office's estimation. What arrogance that would be. We do not bring money to Washington. Money comes to Washington because people work hard, because they are entrepreneurs, because they get up early and stay up late—take care of their kids.

I thank the Senator from Kansas. I know there are others here wishing to speak. I just say eliminating the marriage penalty is important to the future of the United States of America. We should vote against cloture because we need to have the opportunity to provide this relief to America's families.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise this morning to support, in a small way, the efforts of my colleagues from Kansas and from Missouri, talking about how to abolish the marriage penalty and help instill American values into the U.S. Tax Code. I applaud them for their continual efforts to bring this issue to the floor, to continue to talk about the need for us to take a very hard look at this and hopefully create the means of eliminating this very unfair tax on American families.

Since the founding days of this Nation, the family has always been considered to be the bedrock of American society, the first unit of Government. Strong families make strong communities, and strong communities are what has made a strong America. For generations, our ancestors built this country on that very foundation, and the Government respected that tradition by ensuring that its laws did not usurp the family role.

Then how do we explain the existence of the marriage penalty, a piece of Government tax trickery that actually penalizes couples who choose to commit to a family through marriage? Let me read to you, this morning, from a study of the marriage penalty prepared by the National Center for Policy Analysis.

Prior to 1948, the Tax Code made no distinction between married couples and individuals. In that year, Congress changed the law to allow income splitting. In effect, couples were taxed like two single taxpayers even if only one had earned income. The result was to sharply lower taxes for married couples. In short, a de facto subsidy for marriage was created.

By 1969, the magnitude of this subsidy had grown to such an extent that it was possible for a single person to pay 40 percent more in taxes than a married couple with the same income.

This led Congress to create, for married and unmarried people, separate tax schedules [that were] designed to reduce the subsidy to no more than 20 percent.

An unintended consequence of the 1969 law change was to create a marriage penalty for the first time.

Mr. DURBIN. Will the Senator yield for a question?

Mr. GRAMS. Go ahead.

Mr. DURBIN. It is my understanding that there are more couples who benefit from the Tax Code when they get married than those who are penalized, is that correct?

Mr. GRAMS. I am not sure, but when you look at couples across the country who are unfairly paying $29 billion or 21 million couples across the country who are unfairly paying about $29 billion a year in taxes—if there are some discrepancies, we should look at all of it. But what we should not do is penalize those families who are paying an average of $1,400 a year more, just because of the way the codes are set up.

Mr. DURBIN. So, let me ask the Senator a question. If the code, in fact, benefits more families who get married—in other words, their taxes go down—than those who are penalized by getting married, the Senator from Minnesota is not suggesting that we want to change the code and make it so that it will be the opposite, is he?

Mr. GRAMS. No, I am not. What I want to do is reduce the tax burden on families all across the board, but to start right away with what is the most unfair tax.

Mr. DURBIN. I say to the Senator, I certainly support that. I think we did vote—did we not vote on this when it came to the tobacco legislation? Didn't Senator GRAMM, from Texas, offer an amendment on this marriage penalty?

Mr. GRAMS. Yes, it did pass.

Mr. DURBIN. It did pass. And we have already had a vote on this question. And that became one of the burdens carried by the tobacco bill, if I am not mistaken, was it not?

Mr. GRAMS. That was part of that legislation.

Mr. DURBIN. I would just say to the Senator as well, that I have listened carefully to the speeches and I marvel at the suggestion that there are people who are so much in love and ready to get married, and next check that with accountants and decide not to. I haven't run into those folks, but I am sure there are some out there like them. But I thank the Senator.

Mr. GRAMS. When my colleague says he hasn't run into those folks, I have, and I concur with what the other Senators said, that they have. I have had a number of couples come up to me, whether at airports or at meetings or at other times, and tell me exactly the same thing the other Senators have said. They have actually planned around this, whether they have delayed the marriage for a year—I even had one elderly gentleman tell me he called his wife from the accountant, he was 79 years old, and he said to his wife, "I think we need to get a divorce." She was kind of shocked by it and she said, "Why?" And he said, "Because we would be much better off if we were filing single." And then he went through the explanation.

So this is not something that has gone by Americans, and especially families, and especially dual-income families. So I think there are many out

there who are aware of this. When it comes to a difference of $3,500 a year, for those first years I think a lot of families are thinking very strongly about it.

But just briefly, I want to wrap this up and give a couple of minutes to my other colleagues here. But I just think, when we look at the numbers, Washington created this "unintended consequence" within the Tax Code, that, as I mentioned, penalized some 21 million American couples to a tune of about $29 billion a year. I remember President Clinton saying at a news conference not too long ago that he agreed this was an unfair tax, but he also had to put in a qualifier, "But Washington cannot do without money. This $29 billion is too important for Washington to give up." In other words, we are willing, bottom line, to impose an unfair tax on many of our American families just so Washington can have a few additional dollars—if you count $29 billion as a few additional dollars—to have that at the end of the year.

According to the CBO, couples at the bottom end of the income scale who incur penalties paid in, on an average, nearly $800. When we talk about low income and we want go give them a tax break—they paid an additional $800 in taxes. That represented about 8 percent of their income. Repeal the penalty and those low-income families will immediately receive an 8-percent increase in their income.

So my constituents have been very clear on this issue. As I mentioned, many have come and talked to me. Many have written letters. One wrote:

This tax clearly penalizes those who marry and are trying to possibly raise a family by working two jobs just to make ends meet. Our tax laws need to give the proper incentives encouraging marriage and upholding its sacred institutions.

Mr. President, I couldn't agree more.

Also, we began to add some real reform last year with the passage of a $500-per-child tax credit. It is a small step, but in the right direction. This Congress should do everything in its power to promote family life, to return the family to its rightful place as the center of American society. Whether lawmakers intended it or not, Congress created the marriage penalty and it rests on Congress to take it back.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas?

Mr. BROWNBACK. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Kansas has 57 seconds.

Mr. BROWNBACK. I want to explain to Members what is taking place here. Yesterday I filed an amendment to the legislative appropriations bill that would eliminate the marriage penalty we have been talking about this morning. My amendment, which is being cosponsored by several Senators, would reinstate income splitting and provide married couples who currently labor under this Tax Code with some relief. I tried to offer my amendment last Friday with spending legislation that was originally supposed to be debated. However, because of objections from the Democrat side of the aisle to the unanimous consent request that would have guaranteed a vote on eliminating the marriage penalty, we have not been able to get a vote on the elimination of the marriage penalty.

Later in the day, another UC was propounded that would have allowed the Senate to move forward with the legislative branch appropriations bill but without my amendment, and to that UC I objected. Subsequently, the cloture motion was filed to bring debate about tax relief to a close and move forward with this legislation.

I am asking my colleagues today to vote against this cloture motion so we can consider the marriage penalty that is being objected to by my colleagues on the other side of the aisle. Thank you, Mr. President.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. The Senate will now resume consideration of the Legislative Branch Appropriations bill, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4112) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

McCain amendment No. 3225, to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the legislative appropriations bill:

Trent Lott, Robert F. Bennett, Ted Stevens, Don Nickles, Bill Frist, Jesse Helms, Pete Domenici, Richard Shelby, Rod Grams, Kit Bond, Thomas A. Daschle, Orrin G. Hatch, Larry Craig, Strom Thurmond, Paul Coverdell, and Chuck Hagel.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on H.R. 4112, the legislative branch appropriations bill, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

The yeas and nays resulted—yeas 83, nays 16, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—83

Abraham	Feinstein	Lugar
Akaka	Ford	Mack
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Breaux	Grassley	Nickles
Bryan	Gregg	Reed
Bumpers	Hagel	Reid
Burns	Harkin	Robb
Byrd	Hatch	Roberts
Chafee	Hollings	Rockefeller
Cleland	Hutchison	Roth
Cochran	Inouye	Santorum
Collins	Jeffords	Sarbanes
Conrad	Johnson	Shelby
Coverdell	Kennedy	Smith (OR)
Craig	Kerrey	Snowe
D'Amato	Kerry	Specter
Daschle	Kohl	Stevens
Dodd	Landrieu	Thomas
Domenici	Lautenberg	Thurmond
Dorgan	Leahy	Torricelli
Durbin	Levin	Warner
Enzi	Lieberman	Wyden
Feingold	Lott	

NAYS—16

Allard	Faircloth	Sessions
Ashcroft	Helms	Smith (NH)
Brownback	Hutchinson	Thompson
Campbell	Kempthorne	Wellstone
Coats	Kyl	
DeWine	McCain	

NOT VOTING—1

Inhofe

The PRESIDING OFFICER. On this vote the yeas are 83, the nays are 16.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

AMENDMENT NO. 3225

The PRESIDING OFFICER. The pending business is amendment No. 3225 by the Senator from Arizona, Senator McCain.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

POINT OF ORDER

Mr. BENNETT. Mr. President, I raise a point of order that the pending McCain amendment is not germane post-cloture.

The PRESIDING OFFICER. The amendment proposes new subject matter not dealt with in the underlying

bill and therefore is not germane and falls for that reason.

Mr. BENNETT. Mr. President, I know of no further amendments or debate at this time. I ask the Chair to put the question before the Senate, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Oklahoma, [Mr. INHOFE], is necessarily absent.

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—90

Abraham	Ford	Mack
Akaka	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Grams	Moynihan
Boxer	Grassley	Murkowski
Breaux	Gregg	Murray
Bryan	Hagel	Nickles
Bumpers	Harkin	Reed
Burns	Hatch	Reid
Byrd	Helms	Robb
Campbell	Hollings	Roberts
Chafee	Hutchinson	Rockefeller
Cleland	Hutchison	Roth
Coats	Inouye	Santorum
Cochran	Jeffords	Sarbanes
Collins	Johnson	Sessions
Conrad	Kempthorne	Shelby
Coverdell	Kennedy	Smith (OR)
Craig	Kerrey	Snowe
D'Amato	Kerry	Specter
Daschle	Kohl	Stevens
DeWine	Landrieu	Thomas
Dodd	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Torricelli
Durbin	Lieberman	Warner
Enzi	Lott	Wellstone
Feinstein	Lugar	Wyden

NAYS—9

Allard	Brownback	Gramm
Ashcroft	Faircloth	Kyl
Baucus	Feingold	Smith (NH)

NOT VOTING—1

Inhofe

The bill (H.R. 4112), as amended, was passed.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from North Carolina.

Mr. HELMS. Mr. President, are we now in morning business?

The PRESIDING OFFICER. No. The Senator needs to make that request, if he wishes.

MORNING BUSINESS

Mr. HELMS. Mr. President, I ask unanimous consent that we now begin a period for morning business to be concluded at 12 o'clock noon.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I ask unanimous consent that I be recognized for no more than 20 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

CREDIT UNION MEMBERSHIP ACCESS ACT

Mr. HELMS. Mr. President, I have asked for this time this morning because this is the last week I will be here for a while. As of a week from today, I will have traded in my 1921 knees for some 1998 models. And during the time that I will be absent, the credit union issue will come up before the Senate. Now, I could duck the issue and probably make out all right, but I do not operate that way, and I feel I should not merely lay out for the record my views about this piece of legislation, but I should speak them publicly so that they can be known.

Mr. President, I suspect that most, if not all, Senators will agree that a certain type of democracy has, without question, been at work in terms of the astounding number of postcards and letters, faxes, telephone calls, et cetera, et cetera, et cetera, from representatives of the credit union industry at all levels. It would be an understatement, in fact, to describe the deluge as merely an impressive campaign. It is far more than that.

I have been around this place for quite a while, and I have spent many hours meeting with citizens on both sides of the credit union legislation that the Senate will shortly consider. I have seen North Carolinians who support H.R. 1151, the Credit Union Membership Access Act, and I have seen and visited with North Carolinians who are opposed to it.

In any case, the supporters of this bill are an important segment of our community. Credit unions provide basic, efficient, and affordable financial services. And I have to say for the record that North Carolina's credit unions do good work in providing for the needs of countless of their fellow hard-working Tar Heels.

Mr. President, it may be of interest to Senators from other States that this debate began in Randolph County, NC, which is the home of Richard Petty. And anybody who does not know who Richard Petty is, see me after I finish these remarks and I will fill them in on who Richard Petty is.

In February of this year, after a 7-year court battle, the Supreme Court handed down its decision on the case titled National Credit Union Administration v. First National Bank & Trust Co., which was a lawsuit involving several North Carolina financial institutions.

It may be that a bit of history will be useful at this point. Credit unions, as clarified in the preamble of the Federal Credit Union Act of 1934, were created by Congress "to make more available to people of small means credit for provident purposes."

In order to serve these individuals of "small means," credit unions were awarded back then specific benefits that others did not have in connection with their carrying out a clearly defined purpose, which was to provide essential basic financial services.

Now then, these benefits, including exemptions from Federal taxes and the extraordinarily burdensome Community Reinvestment Act, CRA, as it is known around this place—have enabled the credit union industry to serve their customers with a marketplace advantage—very clearly an advantage—not allowed to other insured depository competitors which must pay taxes and which must abide by complex Federal regulations, which credit unions do not have to do.

In the early 1980s, the National Credit Union Administration used its regulatory power for significant alteration and expansion of the original intent of the Federal Credit Union Act.

Specifically, in 1982, the NCUA allowed credit unions to expand their memberships to include multiple employer groups, an action which effectively eliminated the meaning of the common bond. This, in fact, was the precise holding of the Supreme Court's February 1998 decision.

When this debate started, some shrewd Washington lobbyists—and that is about the best I can describe them—these lobbyists circulated the notion that the Supreme Court's intent was—now get this, Mr. President—the intent of the Supreme Court, they said, was to kick people out of their credit unions.

But what happened? Credit union members promptly began calling and writing to me, and all other Senators, I am sure, pleading with us to protect their right to remain members of their credit unions.

Mr. President, that of course never was in doubt, and these lobbyists knew it. But they struck fear in the hearts of the credit union members; hence the deluge of telephone calls and faxes and letters and visits and all the rest of it.

In no way—let me say this as plainly as I can—in no way will these membership rights be revoked from citizens who were credit union account holders prior to the February 25, 1998, Supreme Court decision. I hope I have nailed down that falsehood pretty well.

Parenthetically, Mr. President, it should be made clear that such revocation has never—never—been remotely considered by anybody. It would have been fundamentally unfair for anybody to even think of it. It should also be emphasized that the banking industry is unanimously supportive of the position that it would be unfair.

Mr. President, I am persuaded that many Senators may have been incorrectly persuaded by the deluge of contacts with their constituents that small bankers are attempting to take away the account rights of credit union members, which, in fairness, Mr. President, is an absolute falsehood, and even the lobbyists who contend otherwise are bound to have known and know to this moment that it is false.

Let the record be clear, nobody—nobody—has a membership in a credit union where that membership depends on passing legislation that will allow the unrestrained expansion of credit unions.

Now, the fact is, most traditional credit unions were not, nor ever will be, affected by the Supreme Court decision of last February. The fact is, in that decision the Supreme Court supported the original statutory intent of the Federal Credit Union Act of 1934 that credit unions must have a common bond, that is to say, some reason to be considered as a group. In fact, the Court was unanimous in its interpretation of the law, identical in effect to the way it was written way back in 1934.

All right. You see, Mr. President, most credit unions operate under the definition of a "common bond," as was clearly the intent of the Federal Credit Union Act.

Mr. President, most credit unions will continue to operate and the members will continue to benefit from their regulatory tax-exempt status—taxes that their competitors have to pay.

Now, the point is unmistakably clear. The only credit unions affected are credit unions that have expanded, in clear violation of the Federal Credit Union Act of 1934 which the Court upheld this year. The violation of this Federal Credit Union Act has been done in several ways—primarily by the unlawful inclusion of hundreds of groups, large and small, and thousands upon thousands of employees of these hundreds of groups.

Now, the change in the National Credit Union Administration regulatory policy launched the credit union industry into an era of unprecedented growth. For example, in the 8 months following the regulatory change, one credit union added more than 1,000 different groups. That was done in less than 8 months' time.

No longer were credit unions required to represent groups of individuals with common workplace or geographic interests, but hundreds of unrelated groups not joined by any commonality. Larger credit unions have used this newfound freedom to an advantage at the expense of their financial competitors.

This legislation—and the name of it, just for the record, is the Credit Union Membership Access Act; the number is H.R. 1151—this legislation proposes to codify, to place into law, the NCUA 1982 regulatory interpretation and thereby invite another major expansion of the credit union industry. H.R. 1151 proposes to authorize multibonded credit unions to bring in groups of up to 3,000 members—a number, by the way, which NCUA can waive at its discretion—and would effectively allow credit unions to target every entity in the United States.

Now, the Bureau of the Census has declared that 99.9 percent of the businesses in the United States employ fewer than 3,000 workers. So you see the practical effect of allowing multibonded credit unions to bring into their membership groups which have less than 3,000 members would effectively repeal all limits of expansion on the credit unions which pay no taxes.

In summary, H.R. 1151, the Credit Union Membership Access Act, soon to be the pending business in the Senate, is a long way from the original concept and intent of the very clear common bond. According to the NCUA, to qualify for this tax-subsidized service—and that is what it is—one would simply have to walk in and sign up. It follows that many credit unions are moving beyond their original purpose of aiding individuals of "small means" with basic services. In fact, already such things as professional sports teams, yacht clubs, law firms, country clubs, and many, many others now have their own credit unions. I suggest that this exceeds any rational definition of individuals living by "small means."

In all fairness, the reason I am here this morning is H.R. 1151 does not qualify as simply a pro-credit union bill. It is really, if you want to call it what it is, an anti-competitiveness bill. If Congress wants to alter the intended dimensions of credit unions, Congress should be willing to say so clearly and not hide behind the guise—and that is what it is—that the intent of the soon-to-be pending legislation is to protect credit unions following the Supreme Court's ruling.

Now, then, in realty, Congress is setting the stage for the expansion and growth of the credit union industry into thousands upon thousands of new markets well into the 21st century, while continuing to be exempt from paying the Federal taxes that the competitors down Main Street have to pay.

If the credit union industry wants to expand its presence in the financial marketplace and increase its ability to offer various services to more and more groups—in short, if they want to operate like community banks—I commend their ambition because I believe that the banking industry will and should welcome them into the marketplace as long as credit unions are required to live under the very same tax structure and the very same regulatory morass that America's small community banks and small town bankers live with every day.

Let me be clear, as I wind up, that I oppose both higher taxes and burdensome regulation. If Congress chooses to allow credit union growth without taxation and without costly regulations, then let's be fair and do the same for America's community bankers, the small bankers who are competing for the same core of business without the benefit of a Federal subsidy paid by the American taxpayer.

It is unfortunate that the debate on this legislation up to now has pitted the banking interests versus the interests of the credit union industry. The debate should be about the willingness of Congress to provide a level and fair playing field for all financial interests. Is it equitable for credit unions, comprised of countless hundreds of groups and assets in the billions, to have a competitive advantage over small bankers who are competing for the same business? I am convinced the obvious answer to that is no. Unless and until this becomes a debate about fairness in the marketplace instead of a politically expedient response to a shrewd and energetic lobbying campaign, I cannot and will not support such misguided and tragically misunderstood legislation.

In closing, a few personal observations: Earlier, I mentioned the enormous public relations campaign crafted by lobbyists for the credit union industry. I am confident that every Senator's office has experienced this full court press.

This past week, in fact, a rally was staged right here on Capitol Hill by several thousand credit union supporters who had been brought to Washington to demand immediate passage of H.R. 1151, without amendments.

Now, I am genuinely impressed by the willingness of the credit union industry's supporters to travel to Washington to express their support for H.R. 1151. However, I must question the actions of some of the lobbyists who staged this demonstration on the Capitol steps and used distortion and half-truths and even untruths to get their message across. This undermines the integrity of the people who they purport to represent. I hope in the future they will use greater care in representing their constituencies.

So this debate boils down to an issue of fairness. Most Senators, including myself, have friends on both sides. I take great care in trying to ensure that the small guy, whether he is a bank customer or a credit union member, is given a fair and equal deal, the level playing field that we so often hear so much about. This bill does not represent a level playing field. Congress amended the Federal Credit Union Act in 1937 to give tax-exempt status to federally chartered credit unions to serve a narrow purpose, not to give a distinct market advantage over their competition with the small bank down the street.

Now, it must be said that many credit unions such as the U.S. Senate Federal Credit Union, right here on Capitol Hill, have used this advantage judiciously in serving their clearly defined customer base.

The employees of the Senate are their customer base. They won't lose their membership. Nobody is about to lose their membership. That is all hogwash. Unfortunately, too many other large credit unions have expanded the reach of their tax-exempt status far beyond the original congressional intent—extending their Government-subsidized services to include hundreds upon hundreds of unrelated groups and businesses.

I say again, as a result of this tax-free status and their exemption from Federal regulations that require other financial institutions to reinvest in low-income areas, credit unions are able to offer deals on loan rates and checking accounts that most community banks simply cannot match.

It gives me no pleasure to stand here and take this stand, Mr. President. I could have kept silent and gone on down to North Carolina to have my sore knees fixed. But I am obliged to say, in conclusion, that if we allow credit unions to expand tax free and act more and more like banks, then we should at least try to ensure that there is a level playing field for all similar financial institutions. If we tax the banking industry, the small bankers, we should tax the credit unions—but I don't think we should tax either one of them. If we are to force banks to function under burdensome community reinvestment regulations, shouldn't we support equally demanding regulations for credit unions? Is this not, in the final analysis, just an issue of fairness? It would be simpler and easier for me to keep silent, but my conscience would not let me do so. I cannot engage in that luxury. I felt obliged to take my stand and I have done so.

Thank you, Mr. President, I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent for 15 minutes to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-RUSSIAN RELATIONS

Mrs. FEINSTEIN. Mr. President, at the end of this week, Vice President GORE is scheduled to depart for Moscow to conduct meetings in preparation for a summit meeting between President Clinton and President Yeltsin in September. I believe this meeting and the future summit is really long overdue and extraordinarily important. I would like to take a few minutes to speak about the relationship between our country and the new Russia.

United States-Russian relations today stand at a critical juncture. It has been almost a decade since the end of the cold war, and although we have made great strides in reestablishing the friendship that characterized relations between our two countries in the recent past, we have yet to establish the basis for the kind of partnership that is adequate to guide our two nations into the next century.

The Russian Federation is nearly twice the size of the continental United States. It covers 11 time zones, with a population of close to 150 million people. Lest we not forget, Russia is a country with a nuclear arsenal capable of annihilating the Earth many times over.

Few countries on this Earth have undergone the sort of wrenching political, economic, and social transformation that Russia is now going through. While China has moved slowly and carefully to release centralized control over its economy, the Russian model has moved rapidly, in a macro way, to embrace both economic and social democracy.

Today, Russia remains fragile. The United States has a huge stake in what happens now. Our goal must be to see that Russia remains a stable, modern state, democratic in its governance, abiding by its constitution and its laws, market-oriented and prosperous in its economic development, at peace with itself and with the rest of the world. A Russia that reflects these aspirations is likely to be part of the solution, rather than part of the problem, to world peace.

Conversely, a Russia that erects barriers against what it sees as a hostile world, that believes the best defense is a good offense—such a Russia could be in the 21st century just as it was for much of the 20th century—one of the biggest problems the United States and the rest of the world will face.

Russia may be down as a major power, but it is far from out. Although it is all too easy for some to look at Russia today and conclude that it is not a country that demands attention as a top U.S. foreign policy priority, that, in my mind, would be a grievous error in judgment. To place United States-Russian relations in a secondary category of concern is a surefire recipe for disaster. The United States has an enormous stake in the outcome of the present Russian struggle for democracy and free markets.

I believe that it is in Russia's own interests to conduct a concerted effort against the antidemocratic forces and the ultra nationalistic ones, against crime and corruption and, yes, against old Soviet attitudes and habits. This is the course which the government of President Yeltsin has undertaken, and he has done it despite many impediments that still stand in the way.

Too often we have been quick to point out the shortcomings and imperfections of the Yeltsin government and of Russia—and as recent questions regarding Russian assistance to the Iranian missile program indicate, there is some reason for deep concern.

I am fully supportive of the President's decision last week to sanction nine Russian companies for cooperation with Iran. In my mind, Russia's assistance to Iran indicates just how far Russia has yet to travel if it wants to be a full partner with the United States in the international community. But I must also note that the cooperation that Russia now provides is a welcome reversal of its stance of a few years ago. I hope that this new level of cooperation is a major harbinger of things to come.

Indeed, for those who care to look, there have been many positive developments in Russia over the past years—positive developments that include President Yeltsin's constitutionally based election and reelection in 1996, the defeat of hyperinflation, the end of the war in Chechnya in 1997, the signing of the NATO-Russia Founding Act, and successful Russian participation in joint peacemaking operations in Bosnia.

Russia has also made enormous strides in integrating into global economic and regional economic institutions, including the World Bank, the International Monetary Fund, the ASEAN Regional Forum, the Council of Europe, the Paris Club, and more. Russia has strengthened its ties to the European Union and is active in the United Nations and Organization for Security and Cooperation in Europe.

That is not to say Russian reform has scored a knockout blow against crime and corruption, or that the Russian economy is home free. In fact, the current economic crisis and resulting political instability presents the new democracy with its greatest challenge to date.

The package agreed to last week by Russia and the International Monetary Fund provides significant funding, we

hope, to stabilize the Russian economy, and it contains major fiscal reform elements, including tax reform, some of which are going to be put in place, as well as far-reaching structural reforms to increase growth and free-market competition. It represents an important pledge by Russia to continue the development of a free-market democracy, and it is an important vote by the international community in the importance of this new Russia.

Russia may still be struggling, but it is my belief that it is on the cusp of a constructive interaction in the international community as a democracy. This must be encouraged. As one analyst wrote about World War II era Germany and Japan, "There are no dangerous peoples; there are only dangerous situations, which are the result, not of laws of nature or history, or of national character or charter, but of political arrangements."

In Russia today, there is a growing ultranationalism which represents a major threat to its progress as a democracy, and we must be cognizant of that.

It will take courage for Russia to look to the future positively, to abandon obsolete thinking, to reassess its national security needs and interests in light of new alliances. It will require a high level of determination and hard work by our country to work with Russia to develop these institutions, institutions which can encourage the growth of democracy and free markets and lead to a more stable and cooperative and prosperous new Russia.

But if future generations are to be spared the danger, the expense, and the terror faced by my generation in dealing with Russia, if we are truly to reap the benefits of the end of the cold war, we cannot stand by and wait to see whether democracy and free markets will survive in Russia.

In more concrete terms, I believe that the time is ripe for a full-scale, high-level, new initiative towards Russia as we approach the 21st century.

The Vice President's trip and this September's summit, I hope, will contribute greatly toward this process, but the Senate bears a special responsibility for the conduct of our Nation's foreign policy. We must play a role, too.

This initiative, I believe, should focus on ways in which the United States can work effectively with the new Russia to strengthen and encourage democratization; to support efforts by the IMF and the international community to assist Russia's economy to make the full transition to free markets; to examine and revise outdated legislation which has created roadblocks and bottlenecks in United States-Russian relations and which place United States firms doing business in Russia at a competitive disadvantage; to provide help in the fight against corruption and organized criminal enterprise in Russia; to expedite existing United States resources now available through OPIC, the Eximbank, and other financial institutions through the development of fast-track type programs which cut red tape for worthy business projects and investments; to encourage and expand existing academic, cultural, and other exchange programs, including those between the Congress and the Duma which aim to support Russia's reformers; and, finally, to work to fully integrate Russia as an equal partner in the international political, economic, and security institutions.

We must understand how the right kind of foreign assistance can play a crucial role in assuring Russian economic growth and vitality. And we must understand how our assistance can help create the ability for Russia to consolidate its gains and provide the opportunity for Russia to work out its national identity and destiny in ways which will complement American interests.

None of this will be easy and all of it will require sustained effort. To that end, the Vice President's trip this week is a first major step. And to that end also, I hope to be able to work with the chairman and ranking member of the Foreign Relations Committee of this body to conduct hearings to examine the nature and future direction of United States policy toward Russia. From these hearings I hope we can develop legislation to address United States policy in the areas I have outlined above, and to strengthen United States-Russian ties in an appropriate way.

I deeply believe that this relationship needs the most intensive concern and interaction at the present time. We must give Russia both time and opportunity to consolidate the reforms that constitute the good news of the past few years, to work with them to beat back the forces that threaten this progress, and to assist them to become a stable, prospering, democratic republic which can be a partner for world peace in the next century.

I thank the Chair and I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

(The remarks of Mr. CRAIG pertaining to the introduction of S. 2337 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

HONORING THE DRAKES ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. Individuals from strong families contribute to society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken seriously the commitment of "till death us do part", demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Elsie and David Drake of Springfield, Missouri, who on July 26, 1998, will celebrate their 50th wedding anniversary. Many things have changed in the 50 years this couple has been married, but the values, principles, and commitment this marriage demonstrates are timeless. As this couple celebrates their 50th year together with family and friends, it will be apparent that the lasting legacy of this marriage will be the time, energy, and resources invested in their children, church, and community. My wife, Janet, and I look forward to the day we celebrate a similar milestone.

The Drakes exemplify the highest commitment to the relentless dedication and sacrifice. Their commitment to the principles and values of their marriage deserves to be saluted and recognized.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I don't foresee there is any additional morning business to come, so I ask unanimous consent the period for morning business be brought to a close.

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 2260) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from New Hampshire.

Mr. GREGG. Mr. President, let me begin to address this issue. I know Senator HOLLINGS is on his way to the floor, the ranking Democrat, who has worked so conscientiously on this, along with his staff and my staff. This is the appropriations bill which covers some very core agencies that the Federal Government has responsibility for, specifically areas of Justice, things like the FBI, the DEA, the INS; areas

within Commerce—many areas, of course, are covered by the Commerce Department including, of course, the census issue. Equally important, in fact more important in many ways are ITA and NOAA, two agencies that deal with the manner in which the U.S. economy functions and the manner in which our environment is reviewed. We try to stay ahead of weather conditions.

In addition, this bill has the State Department—obviously the State Department is a core function of the Federal activity—and the judiciary, which is the third branch of the Government, that is also under this bill, along with a number of independent agencies, agencies like the FCC and the FTC and the Small Business Administration. So this is a bill that has broad reach and is a very significant item for the Senate to take up.

This funding bill has been put together as a result of the hard work of a lot of people. I especially thank my ranking member, Senator HOLLINGS, whose input and assistance is always invaluable on this issue. His background and knowledge of the questions which are raised on this bill are extraordinary. I look to him for advice and counsel on many issues. When we agree, we make great progress, which we have on this bill. This bill was reported out of the committee unanimously.

In addition, I thank my staff which has worked so hard, and minority staff which has worked so hard, and the other members of the committee.

PRIVILEGE OF THE FLOOR

Mr. GREGG. During the pendency of this bill, I ask unanimous consent floor privileges be made available to Jim Morhard, Paddy Link, Kevin Linskey, Carl Truscott, Dana Quam, Vas Alexopoulos, Kris Pickler, Lila Helms, Emelie East, Dereck Orr, and Virginia Wilbert.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. That request also included members of the minority staff.

Mr. President, this bill, S. 2260, is, as I mentioned, a bipartisan bill. It was reported out of committee unanimously. It is a bill that allocates $33.2 billion for fiscal year 1999. The bill provides $1.1 billion more than was spent on these agencies last year. I will explain the reasons for those increases as we go on. It is $3.6 billion less than what the President requested.

It is a lean bill. There were difficult decisions that had to be made. But the legislation supports the core functions which are required of these agencies while improving a number of activities pursued by these agencies.

We provide $17.8 billion for the Justice Department. This includes funds to combat terrorism, violence against women and children, illegal drug running, and cybercrime, along with many other worthwhile programs.

I am proud to say the committee included a total of $17.2 million to bolster programs that help law enforcers find and care for missing children. This bill furthers our goals of making communities safer for our children.

You may recall last year the committee increased funding for the FBI and the National Center for Missing and Exploited Children to prevent the use of the Internet to exploit children. Based on the follow-up hearings we held this year, I believe those funds have been put to good use. The Center was involved in recovering 4,878 children this year with an overall recovery rate of 90.3 percent. The Center increased the hours of operation for their phone tip hotline and created a web site on the Internet for public use. The hotline, in conjunction with the web site, should lead to more pedophile apprehension. The Center also provides special training for local law enforcement people at the Jimmy Ryce Law Enforcement Training Center about how to pursue missing children. This is a serious issue, missing children, and we are trying to address it aggressively in this bill.

As part of this effort, we have recommended $5.2 million for the FBI to combat child abductions and serial killing.

The FBI has put together an exceptional task force to address the issue of child abductions and serial killings.

The tragic school shootings in the past few months that have shocked the Nation are also a concern of ours. According to the National School Safety Center, 25 students have been killed in U.S. schools since January 1 of this year. This is the same number of students who were killed for the full 1996 school year, but in half the time.

For this reason, the Senator from South Carolina and I created a new Safe Schools Initiative which provides $210 million to introduce a positive law enforcement presence in our school systems. By working together with educators and local communities, we believe law enforcers can find ways to stop the escalation of murders and violence in our schools. The funding is found in three Department of Justice accounts: $175 million from Community Orientated Policing (COPS) for additional officers; $25 million for the Juvenile At-Risk Children's Program for prevention efforts; and $10 million from the National Institute of Justice to develop new, more effective safety technologies. These funds will be used by local law enforcers in partnership with schools and communities to develop programs to improve safety in our schools.

I congratulate and appreciate the support of the Senator from South Carolina in developing this new initiative. Our intention is to provide educators with the means to improve hostile environments. We must make sure that violence does not become a commonplace event in our school systems.

In addition to this new Safe Schools Initiative, we fund many of the out-of-school programs for children that will likely be familiar to you. We increase funding for the Boys and Girls Clubs of America, for the Big Brothers/Big Sisters program which brings young people together with responsible adults willing to serve as long-term mentors. These programs give students positive reinforcement while expanding their horizons while taking up those hours of the day when students are most at risk—the time right after school.

There are prevention programs, such as the National Crime Prevention Council, whose well known mascots of McGruff and Scruff make learning safety tips fun, or Parents Anonymous which advocates prevention of child abuse and which will be creating an immediate-response system with the fiscal year 1999 funding.

Many States have youth programs tailored to their communities, and these communities may be eligible for Federal grants to assist in the areas of education, research, prevention, and rehabilitation. These are the types of programs the committee is supporting by placing $284 million in the juvenile justice programs account.

I stress here that we have not tried to reinvent the wheel. We have supported programs that work, and we have turned to communities to give us their ideas as to how these funds should be allocated.

Also in line with youth support, the committee is recommending $12 million to expand the Youth Gang Program and $95 million for incentive grants for local delinquency programs, including $25 million to enforce underage drinking laws.

Most of the programs I have mentioned are prevention programs to work with youth, but there is more to this process. The committee, with help from the chairman of the Judiciary Subcommittee on Youth Violence, added $100 million for the juvenile accountable incentive block grant. These funds will go towards functions that are in place to emphasize accountability to juveniles after they have committed crimes, such as detention facilities and probation officers.

The committee recommends an increase to $282 million for the Violence Against Women Program. According to the Justice Department, violence by an intimate accounts for 21 percent of the violent crime experienced by women. Our legislation increases the number of law enforcers and prosecutors who will address these crimes. Our intent is to develop and implement effective arrest and prosecution policies in order to provide better handling of crimes against women. Women ages 16 to 24 experience the highest per capita crime rates of intimate violence. Therefore,

the committee is providing $10 million within the funding level for the prevention of violence on college campuses. By doing so, we will be helping the women who are most at risk.

Many of our colleagues are familiar with the story of Megan Kanka who was killed by her neighbor, a convicted sex offender, in New Jersey in 1994. Congress subsequently passed Megan's law that asks States to require its violent sex offenders to register their address with government officials upon their release from prison. To further this effort, this bill contains $25 million for the National Sex Offender Registry to identify, collect, and exchange sex offender data from the States through an automated registry.

Further, the bill includes $45 million to assist States in improving the automation, accuracy, and completeness of criminal history records. This will facilitate the exchange of interstate information.

In addition, we add money for the DNA programs so that States will be able to communicate effectively with each other on the issues of DNA.

The balance that we tried to reach was between those areas of prevention where we can assist children, especially children in school, and give them leadership when they are out of school during those difficult hours, with the need to have a tough enforcement process, and that enforcement process has been adequately funded and aggressively funded as a result, in large part, of the Senator who is sitting in the Chair right now whose leadership on the issues of juvenile justice is primary in this body.

Another area of Justice activity we have addressed is the terrorism issue. Terrorism continues to be a primary concern and threat to our country, so the committee is continuing to support a strong counterterrorism policy, something we began a couple of years ago with the work of Senator HOLLINGS and myself.

The Attorney General is working on a counterterrorism strategy that should be completed by the end of the year. We look forward to the completion of that plan, and we are recommending $224 million for counterterrorism initiatives.

Our counterterrorism recommendation is comprehensive. A portion of this funding will go to the first-responder training and equipment as the Nation must be able to quickly react to a terrorist incident. Another portion will provide funding for specific programs to build this capacity, such as metropolitan medical strike team training and equipment, the acquisition of equipment for the largest cities and localities in the United States, the implementation of situational exercises, State and local bomb detection and technician equipment, and equipment grants for local fire and emergency agencies. The intent of the committee is to provide direct assistance to the first responders as well as to guide our national policy toward a coordinated and effective response.

We also recommend significant funding for State and local law enforcers to have the same training and equipment as their Federal counterparts. The committee recognizes the need for the Federal, State, and local law enforcers to work together, especially in addressing a terrorist attack.

We provide funding for the FBI to prepare for terrorist attacks. The issue of terrorism is a two-fold event—one of trying to stop it and anticipate it through intelligence and, second, trying to react when such an unfortunate incident occurs. We have aggressively funded the FBI initiatives.

As part of the counterterrorism effort, we enable the Attorney General to quickly receive reimbursements from other agencies as well as to acquire the necessary equipment and services during a terrorist crisis.

We have further requested the Attorney General to conduct a no-notice, counterterrorism-readiness exercise involving the leadership of all pertinent agencies. We look forward to the results of that exercise.

This is just a brief summary of some of the elements of our counterterrorism strategy. Obviously, some parts of it have to remain classified, but our purpose is to have a comprehensive, all-encompassing response to what is clearly one of the biggest issues facing our country.

Are we prepared for a terrorist attack at this time? No, we are not. Are we moving in the right direction to get prepared for such an attack? Yes, we are. Having visited almost all the agencies that are involved, those that are in our purview of jurisdiction and those outside our purview of jurisdiction, the one thing I have been most impressed with is a sincere and genuine effort to have a coordinated response to this issue, and there appears to be very little in the way of a turf fight going on, which is absolutely critical that we avoid in trying to address this issue.

In the area of drugs, we also have a major effort. The strategy includes $24 million for DEA's methamphetamine initiative and $13 million for the heroin strategy. To also combat methamphetamine production and trafficking, we are recommending a $15.5 million methamphetamine program through the COPS program.

The Senator from South Carolina and I have worked with the DEA Administrator to create regional drug enforcement teams to address the strategies of the cartels. The committee directs $21.8 million for this effort, and there is an additional $5.6 million provided to handle the influx of violent drug-trafficking groups based in the Caribbean.

We included also $25 million for S. 1605, the "Bulletproof Vest Partnership Act," sponsored by my friend and colleague from Colorado, Senator CAMPBELL, and signed by the President on June 16. This funding will go to law enforcement officers for the purchase of bulletproof vests.

The committee recommends a new initiative which provides $144 million to improve law enforcement in Native American communities. The funds come from a variety of agencies. However, we have seen, unfortunately, that adequate law enforcement in Native American communities is woefully lacking, and there are a number of initiatives which we have undertaken in this bill to try to assist those communities.

In the area of the INS, the Immigration and Naturalization Service, this bill provides $3.9 billion. We want to equip the INS with the means to manage its two-pronged duty of law enforcement and legal immigration. On the enforcement end, we are recommending an additional 1,000 Border Patrol agents for the borders and a 100-person integrated team designed to intercept illegal aliens traveling on highways in the South and Midwest in order to counteract problems arising in the interior of the country.

When we take these 1,000 agents and add them on top of the 1,000 agents we put in last year, we are making a huge personnel expansion in the INS in the area of the Border Patrol where the problem exists.

For the second prong, the administrative portion, we provide sufficient funding that is enhanced by technology. The INS construction and maintenance has been woefully under funded in the past years, and we recommend more than a 33 percent increase. The $110 million level will strengthen training, border control, and detention and deportation.

Detention space shortfalls and the naturalization backlog will benefit from the increased revenues from revived fees. Where possible, new technology should ease the burden on our overworked personnel.

Of note, this bill does not address the INS reform issue. Reform is needed in that agency, but it is too complex an issue to address in the context of this appropriations bill. Clearly, it needs to be addressed in the future and, hopefully, in the near term.

In the Commerce Department we have provided $4.9 billion. The committee provides funding requested by the President for the U.S. Trade Representative and the International Trade Commission, and a variety of other international trade activities, including ITA, at funding levels which are more than adequate to address the concerns in trade which are so critical to strong commerce. Commerce Department programs are supported specifically at a level that will adequately do the job that is required.

In the area of the census, we have put in $848 million, over a half-million dollars. This is the amount that was requested. We have not addressed the issue of the question of the proper way to count the census. The decennial census is important not just for the apportionment of Representatives in the House of Representatives but for many of the formulas that create grants to the States.

The dress rehearsal for the census raised several issues which deserve congressional scrutiny. This occurred recently in two cities in the United States. Going into the dress rehearsal, the Census Bureau did not have in place software which could detect duplicate or fraudulent census forms. The inability of the Bureau to test such an important system during the dress rehearsal is troubling.

The keystone of any census is the mailing list. In this bill, additional funds are provided to assist the Bureau in "re-engineering" its mailing list. The forms returned as "undeliverable as addressed" during the rehearsal were twice the number estimated by the Census Bureau. Mailing list problems varied in three locations in which the dress rehearsal was conducted.

The purpose of the dress rehearsal is, of course, to identify shortcomings which must be corrected in order for the decennial census to be successful. The Census Bureau is behind in its efforts to create its Master Address File for the decennial census. Also, reports of mail address problems from the dress rehearsal do nothing to increase the confidence that the address list "re-engineering" will be successful. During the dress rehearsal, maps for enumerators to follow up with those not responding to the census were found to be hard to read and, in some instances, inaccurate.

A successful census will require a good mailing list, a way to detect fraudulent or duplicate forms, and maps to permit enumerators to follow up on nonresponsive citizens. We will spend billions of dollars on the year 2000 census. We should expect these basic elements to be in place for the dress rehearsal. They were not, and this should concern every Senator.

We need to know what is going to happen with the census when it occurs. Clearly, there is a fight going on over whether there should be sampling. But one thing is obviously clear from the dress rehearsal: Whether there was sampling or whether there was not sampling—whether there was a head count or not—the census is not ready to go forward and a lot needs to be done.

The bill funds the National Institute of Standards and Technology (NIST) programs at a level of $646.7 million. This level will enable NIST to upgrade its facilities and to build a state-of-the-art Advanced Measurement Laboratory. NIST's activities are actually critical to American industry. They are especially important now where exporters are running into trade barriers which are sometimes technically applied to them, and this can assist them in being more responsive to these technical barriers.

The committee also funds the National Oceanic and Atmospheric Administration (NOAA) at $2.2 billion. This exceeds the requested level. This committee is totally committed to being sure that we have a first-class NOAA effort. Clearly, in light of what we have seen from El Nino and other weather events in this country in recent times, it is absolutely critical that we have a strong Weather Service. And the need to expand our activity in the area of ocean activities is also equally critical.

NOAA advises us that they are getting near to the ability to adequately forecast an El Nino type of event, and we intend to make sure they have the funds to accomplish that. In addition, this year's budget request includes the Advanced Hydrological Prediction System, which should assist in forecasting floods in the Missouri flood basin, an absolutely critical issue, as well as the Advanced Weather Interactive Processing System which the National Weather Service needs.

Further, we have created a new Oceans Policy Commission. This is basically the outgrowth of an initiative of, again, the Senator from South Carolina. As some may recall, NOAA was initially created under the Nixon administration by Executive order. The idea for an agency to conduct research on oceans and atmosphere came as an outgrowth of the Stratton Commission, which was created in the 1960s. I think it is fair to say that the Senator from South Carolina and I believe the time has come to reinvigorate and assess the state of U.S. ocean policy and research. This commission will accomplish that.

In the area of the State Department and its related agencies, we have provided $5.6 billion. We are totally committed to modernizing the information technology and facilities, and especially housing, of the State Department. The committee recommended $118 million, the full request, for computers and communications equipment. This funding is an essential part of achieving the year 2000 compliance. Another $5 million is provided for systems unique to the United States Information Agency. And $550 million, approximately, is provided for the security and maintenance account, and $52.9 million is allocated for desperately needed housing. Finally, we fund the design of two new chanceries in Beijing and Berlin and anticipate funding the construction in next year's bill.

As for the international accounts, the committee recommends $1.1 billion for international organizations and $431 million for peacekeeping. Though the administration did not request it, the committee recommendation includes $475 million for arrears. The $475 million is consistent with the State Department authorization bill and the 1998 budget resolution. This year's payment brings the total available for arrears to $575 million. That is the amount that the U.N. requested. And we are on course to full funding of the arrears. With a stroke of the pen, the President can restore the credibility of the United States at the U.N. by simply signing the appropriate legislation—specifically, the State Department authorization bill which was agreed to. So the Congress has done its part and continues to do its part on funding the arrears issue.

The problem lies with the White House.

Finally, because of the crisis in India and Pakistan, we fully fund the Arms Control and Disarmament Agency.

In the area of the Judiciary, out of a total of $3.6 billion, we recommended full funding for the Judiciary's highest priorities: court security, defender services, and the Supreme Court. The remaining accounts receive increases across the board, although not all at levels that they were requested. We also include a cost-of-living adjustment for the justices and the judges.

We, as I mentioned, have a number of independent agencies. In regard to the Federal Communication Commission (FCC), we are funding that at the levels they requested. However, there remains the issue of the Portals II building. I am sure there will be considerable discussion of that before we complete this bill, but the fact is that there has been gross mismanagement relative to the Portal II building. The FCC should not be forced into moving into a building that does not meet its requirements from the standpoint of technology or security, and that building is really a total affront to the taxpayers of this country—that being the fact that we continue to pay for uninhabited space which is uninhabitable space as well as being uninhabited.

In the Federal Trade Commission, we have aggressively worked with the leadership of the Federal Trade Commission, Chairman Pitofsky, to pursue an aggressive program on telemarketing fraud. Consumers lose anywhere from $3 billion to up to $40 billion a year as a result of telemarketing fraud. We are seeing a great expansion of this activity, especially on the Internet. The committee is working with the Commission and has set up a new program to try to address this, including an 800 number. The Commission feels quite confident this will have a significant impact on the problem.

The Small Business Administration is also funded at a high level, $613 billion. Of this, $240.8 million goes to business loans and $94 million goes for the disaster loan account.

Of concern to the committee is the administration's request to increase the disaster loan interest rate. This request was soundly rejected. The committee has made it clear to the SBA and the administration that increasing the interest rates on loans to Americans who have experienced disasters is unacceptable. The administration should reverse its ill-considered proposal to make disaster victims pay market rates for assistance in recovering from economic injury.

I thank the Senator from South Carolina for his strong assistance in helping with this bill. There is a great deal more to talk about, and I am sure we will have plenty of time to do that as we proceed forward.

I thank the Senator from South Carolina for his courtesy for that long statement. I understand we may break at 12:30, so he may want to reserve his statement.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I think the distinguished chairman has stated it extremely well.

Mr. President, I am pleased to join my Subcommittee Chairman and colleague, Senator GREGG, in presenting to the Senate S. 2260, the Fiscal Year 1999 Commerce, Justice, and State, the Judiciary and related agencies appropriations bill. Once again, I would like to commend Chairman GREGG for his outstanding efforts and bipartisan approach in bringing to the floor a bill that—given the number of priorities we have been asked to address within our limited 302(b) allocations—is good and balanced.

In the Commerce, Justice, and State appropriations bill, we fund a wide variety of Federal programs. We fund the FBI, the DEA, the State Department and our embassies overseas, fisheries research, the National Weather Service and weather satellites, the Supreme Court, the Federal Communications Commission, and the list goes on and on. In total, this bill provides $33.2 billion in budget authority which is a little over a billion above last year's appropriated levels and a little over a billion below the President's request. The bill is right at our section 302(b) allocation.

Chairman GREGG has touched on many of the funding specifics in this bill, so I will not repeat the details; however, I would like to point out to our colleagues some of the highlights of this bill:

JUSTICE AND LAW ENFORCEMENT

This bill provides appropriations totaling $17.8 billion for the Department of Justice. Within the Justice Department, the bill provides $2.95 billion for the FBI, $1.2 billion for the DEA, and $1.08 billion for the U.S. attorneys.

Safe Schools Initiative—The bill also includes a new initiative, the Safe Schools Initiative for which Senator GREGG and I have provided $210 million in an effort to combat violence in our schools.

This past spring it seemed like there wasn't a week that went by without the country having to suffer through the trauma of watching on the news another story of school shootings or school violence unfold. And the ages of the victims and the violent youth get younger and younger with each report.

National statistics provided by the Justice Department indicate that between 1989 and 1995, there has been a 37 percent increase in the number of students age 12–19 reporting violent crimes at school. In 1995, there were 3 million students age 12–19 reporting that they knew a student who brought a gun to school, and over 1.2 million students reported seeing a student with a gun at school.

The idea behind this initiative is to stop violence from spreading throughout our Nation's schools like so many drugs have.

This initiative is aimed at protecting our children by putting more police in the school setting. The bill provides $175 million through the COPS Program, for local police departments and sheriff's offices to work with schools and other community-based organizations to develop programs to improve the safety of elementary and secondary school children and educators in and around our nation's schools.

In Richland County, Columbia, I recently visited a school that employed a police officer as both a teacher and a mentor—serving as an authoritarian figure while at the same time establishing friendships with the kids. We need more programs like this—and this initiative is a step in that direction.

This initiative is also aimed at creating prevention programs for our young people to stop this violence before it begins. The bill provides $25 million from the Juvenile Justice At-Risk Children Program for communities to implement approaches unique to their particular problems. For example: State centers may provide accountability and responsibility training, violence reduction training, juvenile mentoring, training for teachers to recognize troubled children, parent accountability and family strengthening education.

In Richland County, Columbia, the same program that puts the policeman in the classroom has him out of the school fields after classes are over, teaching students about responsibility, cooperation, and positive interaction.

Mr. President, three years ago, Richland County began a program of placing police officers in the school setting. This program, operating out of the Sheriff's office, places 20 certified police officers in high schools and middle schools throughout Richland County. The police officers are called "School Resource Officers" and basically serve as counselors, role models, and teachers. The officers assist teachers in the school by developing and teaching lesson plans that include: conflict resolution, law related education, psychology classes on drug abuse, and how to vocalize concerns rather than act out violence, etc.

This program is a proven success. Officer David Soto of Richland County, just named School Resource Officer of the Year, made 126 arrests at the school in his first year, 56 is the second, and only 36 this past year. His presence is most certainly making a difference. And this new initiative will too.

For grants, the bill provides $1.4 billion for the Community Oriented Policing Services (COPS) Program, $282.7 million for Violence Against Women Program, $711 million for State prison grants, $552 million for the Local Law Enforcement Block Grant Program, $40 million for drug courts, and $284 million for juvenile justice programs.

DEPARTMENT OF COMMERCE

The bill provides $4.823 for the Commerce Department, an increase of $572 million over this year.

$451 million of that increase for the Department of Commerce went to the Bureau of the Census to fund the decennial census at the President's request level of $848.5 million. The bill does not take a position on whether the Bureau should use statistical sampling or enumeration.

NIST's Advance Technology Program (ATP) is funded at last year's appropriated level of $192.5 million, and the Manufacturing Extension Partnership (MEP) program is funded at a level of $106 million. Funding is extended for those centers affected by the existing sunset provision. The bill supports the bipartisan efforts of the 17 members of the Commerce Committee who voted to report out a reauthorization bill and the 20 cosponsors of that legislative proposal.

The International Trade Administration is funded at $304 million.

The bill provides $2.2 billion for NOAA, an increase of $200 million over this year's funding level. Chairman GREGG and I have continued to work bipartisanly to keep a focus on our Oceans.

Oceans Commission funding. Senator GREGG and I have also included in this bill $3.5 million in funding for the creation of an Oceans Commission. Thirty-two years ago, Congress enacted legislation that created a national commission (Stratton Commission) whose ideas have shaped our ocean policy for almost thirty years. Resulting from the Commission was the creation of

NOAA and enactment of such vital legislation as the Coastal Zone Management Act, and the Marine Sanctuaries program. This Commission—modeled after the successful Stratton Commission—will look at U.S. ocean and coastal activities and report within 18 months on recommendations for a national policy.

Today half of the U.S. population lives within 50 miles of our shores and more than 30 percent of the Gross Domestic Product is generated in the coastal zone. Our ocean and coastal resources that were once considered inexhaustible are severely depleted, and our wetlands and other marine habitats are threatened by pollution and human activities. Meanwhile, recent technological advances related to the oceans offer us new economic and scientific opportunities. In an effort to address the increasing environmental, economic, and scientific demands on our oceans, our ocean-related government bureaucracy has grown rapidly during the past three decades into a patchwork of regulations and programs. This Commission will give us insight into what direction our national policy should take to preserve, manage and use this limited resource during the next thirty years.

A number of marine user and interest groups have endorsed our efforts to create a new Ocean Commission, including: The American Coastal Coalition; the American Oceans Campaign; the American Sportfishing Association; the Center for Marine Conservation; the Coastal States Organization; the Consortium for Oceanographic Research and Education; the H. John Heinz III Center for Science, Economics, and the Environment; the Jason Foundation; the National Fisheries Institute; the Pacific Coast Federation of Fishermen's Associations; and the World Wildlife Fund.

It is time for this country to reassess our national policy toward our oceans and this provision takes the first necessary step to get us moving in the right direction.

STATE DEPARTMENT AND INTERNATIONAL PROGRAMS

The bill includes $5.6 billion for the Department of State and related agencies. Within the State Department, the bill provides $550 million—an additional $146.8 million above this year's level of funding—for security and maintenance of U.S. missions, including funding for the chancery in Beijing, China and Berlin, Germany.

The funding level also includes payment of international organization and peacekeeping funds, including $475 million for U.N. arrears, subject to authorization.

International broadcasting is funded at $333 million which includes voice of America, Radio Free Europe, and Radio Free Asia.

Mr. President, in summary, given the allocation we received, this is a good bill. Many—but not all—of the administration's priorities were addressed to some extent. Likewise many—but not all—of the priorities for members were addressed to some extent. Tough decisions were made because of, on the one hand, the limited allocation, and on the other hand, the critical need to fund the Census, and 1,000 Border Patrol agents, and counterterrorism efforts, and the FBI's capabilities to combat child abductions, and DEA's continued war on drugs, and weather satellites, and critical fisheries research, and peacekeeping and the list goes on and on and on.

Mr. President, let me emphasize a couple of things. One, of course, is my gratitude for the outstanding leadership that Chairman GREGG has given our subcommittee in submitting this measure to the U.S. Senate. We worked around the clock to get this done, and no one has been more conscientious in trying to hold back spending.

The appropriation for State-Justice-Commerce is $33.2 billion, slightly over a $1 billion increase from this present year. This increase is accounted for by the fact that we had to provide for the Census, and what is due and owed to the United States, and for law enforcement. This increase, however, is actually $1 billion less than what was requested of us by the President of the United States.

As should be emphasized, the Safe Schools Initiative, under the leadership of Chairman GREGG, provides a good $175 million increment in the overall $210 million appropriations with respect to school resource officers within the school system.

Some three years ago, in my own backyard of Richland County, SC, Sheriff Leon Lott came upon the idea of putting some of his deputies in troubled schools, rather than putting them all on the streets. Sheriff Lott's idea has been a tremendous success. There now are about 20 officers, school resource officers, in Richland County schools. In one particular school, one officer has made almost 250 arrests in one year. He made 156 arrests the first year, and then some 56 the second year, and now down to 36 this year—the dramatic decline in arrests shows that this program works, it reduces crime.

What really occurs is that these officers teach courses in law enforcement, teach respect for the law, and engage the students and the administration. Also, of course, they talk to the administration and know when a child is troubled or doesn't have any help from home and everything else of that kind, and they can more or less become a friend and mentor to the child.

In this day and age, we hear much talk about the family on the floor of the U.S. Senate. Three out of four women with children in school have a job. Now I don't believe that is the fault of the U.S. Senate and I don't believe that will be solved by the U.S. Senate. There are children who come to school who don't have a father, and whose mother works. In essence, they don't have parental guidance. The teacher is called upon not just to teach but to substitute as a parent and keep law and order in the classroom. Teaching class, these officers will come to know the students well. They will serve as mentors and their understanding of the students will help them combat crime and prevent it before it starts. And in the afternoon they will participate in athletic events. Around the clock, these officers will become known and become role models.

Three million students last year attested that they knew of someone who brought a pistol or a knife onto school grounds, but that they didn't tell anyone because they didn't want to get involved and get themselves in trouble. But now with that officer engaged as he is around the classes and in the exercises in the afternoon, becoming a role model, trusted and known, these students just nudge, just point. The officer knows why they are pointing. They don't have to say anything. They are right on top of these situations. I think it is a tried and true, valid approach now to this problem of violence and death in America's public schools.

I commend Chairman GREGG on this particular initiative, the Safe Schools Initiative. I commend, of course, the leadership that we had under Sheriff Lott back in my own backyard that has gained acceptance for this particular program. Also, I think that you have to be able to mention the fact that we are taking care of the United Nations. We have not gotten into that Census sampling problem. That will have to be solved in conference. We do have an oceans initiative that the Ocean Commission—that was passed by the U.S. Senate almost unanimously. We reinstate more or less the old Stratton Commission of 32 or 33 years ago.

We need to update that. And we find that we have billions and billions to go up into space, but we can't find, seemingly, enough money for the National Oceanic and Atmospheric Administration for research and to get the attention of the public generally with respect to seven-tenths of the Earth's surface.

I would like to take a moment before closing to acknowledge and thank Senator GREGG's staff—Jim Morhard, Kevin Linsky, Paddy Link, Dana Quam, Karl Truscott, and Virginia Wilbert—and to my staff—Lila Helms, Emelie East, and Dereck Orr—for their hard work and diligence in bringing together a bill that does everything I have just mentioned and more. They have worked nonstop in a straightforward and bipartisan manner, and those efforts are evident in the product before the Senate today.

Mr. Prsident, in closing I would like to make a few final comments about Scott Gudes who left my staff several weeks ago after working as minority clerk on this subcommittee for the last 4 years, and as majority clerk for the 4 years prior.

TRIBUTE TO SCOTT GUDES

As Senator BYRD said about Scott Gudes 2 years ago, nobody knows better. Scott has worked with me on the Commerce, Justice, State bill for 8 years and it has been a prvilege working with such an intelligent, diligent, hard-working, and genius staff member. Senator BYRD hit the nail on the head—Scott knows appropriations; Scott knows Senate procedure; and Scott has common sense better than anyone. His departure from my committee staff is a geuine loss to me, to everyone who had the opportunity to work with him, and to the United States Senate.

Scott began working with me in 1990 as majority clerk for the CJS Subcommittee and stayed with me in this position through this year. Before that he was hired by Senator STEVENS and worked for him, Senator Stennis, and Senator INOUYE on the Defense Appropriations Subcommittee from 1986 to 1990 where he was responsible for all Department of Defense Operation and Maintenance accounts. During 1989 and 1990 he served as a subcommittee branch chief/assistant staff director and in this tenure on the Defense Subcommittee, Scott earned a reputation as handling the broadest and largest portfolio of any House or Senate appropriations staff.

This reputation followed him to the Commerce, Justice, State Subcommittee, where Scott became responsible for knowing the policy context and daily operations of a vast array of programs operated by four cabinet departments, the Departments of Justice, Commerce, State, and USTR, the Federal Judiciary, and 24 independent Federal agencies such as the FCC, SEC, FTC, LSC, EEOC—he was in a world of acronyms, yet he was able to tell you the current and historical status of each and every one of these agencies, he could assess their budgetary concerns, identify future year needs, and quickly determine the political astuteness of contemplated legislative action on any of the programs or agencies in the bill. He was our utility player—able to jump from satellites to fisheries to telecommunication to immigration policy to small business development, demonstrating his technical expertise and political acumen in the broadest array of programs imaginable.

Scott deserves the credit for a number of innovative and forward-thinking initiatives on the CJS bill during his tenure. His creativity compelled the subcommittee to consider and adopt such important initiatives as the NOAA fleet modernization program, acquisition of a high-altitude hurricane reconnaissance aircraft for the National Weather Service, methods of supporting the COPS on the Beat program, ways to hire and keep funding more border patrol agents, successfully integrating the 1994 Violence Against Women Act into our appropriations bill, finding ways to make the GOES satellite program start working under the necessary time table—the list could go on. But the important thing to note is that more often than not, Scott's recommendations at how best to technically and politically institute these initiatives were the recommendations we would follow, whether in the majority or minority.

Scott is now working for the Department of Commerce at NOAA, the National Oceanic and Atmospheric Administration, as Deputy Undersecretary of NOAA. Scott has followed his passions—the oceans, fisheries, atmospheric science—and NOAA, the Department of Commerce, and we as U.S. citizens reaping the benefits of NOAA's programs are all the better for Scott's high position in this agency. Scott will undoubtedly excel at this position just as he had here in the Senate, before that at OMB, as a Presidential Management Intern working in the Office of the Secretary of Defense, and at the city manager's office for the city of Costa Mesa, California. Scott is indeed a fine, fine person—NOAA is lucky to have him, and I expect to see his star shine for many, many years to come. I wish Scott all the best in the world—and know that in whatever position in life Scott finds himself, his decency, intelligence, and integrity will continue to be synonymous with his name. Congratulations, Scott. You will truly be missed.

Mr. INOUYE. Mr. President, I wish to congratulate Chairman GREGG and Senator HOLLINGS on their leadership in crafting the Fiscal Year 1999 Commerce, Justice, and State, the judiciary, and related agencies appropriation bill. Given the broad reach of this measure and our budgetary constraints, this was no easy task.

From a parochial standpoint, I wish to thank the Chairman and Senator HOLLINGS for their sensitive consideration of programs of importance to the State of Hawaii, including the East-West Center, Hawaiian monk seal recovery, endangered sea turtle research, and coral reef research, assessment, monitoring and management, to name a few.

I would also like to acknowledge the outstanding work of the staff: Jim Morhard, Kevin Linskey, Paddy Link, Dana Quam, Vasiliki Alexopoulos, Lila Helms, and Emelie East.

Finally, I would like to thank Scott Gudes for his many years of dedication to the Senate Appropriations Committee, and in particular, the Defense and Commerce, Justice, and State Subcommittees. Throughout the years, Scott worked tirelessly and conscientiously, and garnered the deep respect of Members and staff who had the privilege of working with him. Scott recently left the Senate to become Deputy Under Secretary at the National Oceanic and Atmospheric Administration. I wish him much success and fulfillment in this new endeavor.

AMENDMENT NO. 3227

(Purpose: To establish a prohibition on commercial distribution on the World Wide Web of material that is harmful to minors, to persons under 17 years of age)

Mr. COATS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes an amendment numbered 3227.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 135, between lines 11 and 12, insert the following:

Title I. —

SEC. 620. (a) PROHIBITION.—

(1) IN GENERAL.—Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended—

(A) by redesignating subsections (e), (f), (g), and (h) as subsections (f), (g), (h), and (i), respectively; and

(B) by inserting after subsection (d) the following new subsection (e):

"(e)(1) Whoever in interstate or foreign commerce in or through the World Wide Web is engaged in the business of the commercial distribution of material that is harmful to minors shall restrict access to such material by persons under 17 years of age.

"(2) Any person who violates paragraph (1) shall be fined not more than $50,000, imprisoned not more than six months, or both.

"(3) In addition to the penalties under paragraph (2), whoever intentionally violates paragraph (1) shall be subject to a fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(4) In addition to the penalties under paragraphs (2) and (3), whoever violates paragraph (1) shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(5) It is an affirmative defense to prosecution under this subsection that the defendant restricted access to material that is harmful to minors by persons under 17 years of age by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number or in accordance with such other procedures as the Commission may prescribe.

"(6) This subsection may not be construed to authorize the Commission to regulate in any manner the content of any information provided on the World Wide Web.

"(7) For purposes of this subsection:

"(A) The term 'material that is harmful to minors' means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

"(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

"(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

"(iii) lacks serious literary, artistic, political, or scientific value.

"(B) The terms 'sexual act' and 'sexual contact' have the meanings assigned such terms in section 2246 of title 18, United States Code.".

(2) CONFORMING AMENDMENT.—Subsection (h) of such section, as so redesignated, is amended by striking "(e), or (f)" and inserting "(f), or (g)".

(b) AVAILABILITY ON INTERNET OF DEFINITION OF MATERIAL THAT IS HARMFUL TO MINORS.—The Attorney General, in the case of the Internet web site of the Department of Justice, and the Federal Communications Commission, in the case of the Internet web site of the Commission, shall each post or otherwise make available on such web site such information as is necessary to inform the public of the meaning of the term "material that is harmful to minors" under section 223(e) of the Communications Act of 1934, as amended by subsection (a) of this section.

AMENDMENT NO. 3228 TO AMENDMENT NO. 3227

(Purpose: To direct the Federal Communications Commission to study systems for filtering or blocking matter on the Internet, to require the installation of such a system on computers in schools and libraries with Internet access, and for other purposes)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. COATS and Mrs. MURRAY, proposes an amendment numbered 3228 to Amendment No. 3227.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment, add the following:

TITLE II.—INTERNET FILTERING

SECTION 1. NO UNIVERSAL SERVICE FOR SCHOOLS OR LIBRARIES THAT FAIL TO IMPLEMENT A FILTERING OR BLOCKING SYSTEM FOR COMPUTERS WITH INTERNET ACCESS.

(a) IN GENERAL.—Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end thereof the following:

"(l) IMPLEMENTATION OF A FILTERING OR BLOCKING SYSTEM.—

"(1) IN GENERAL.—No services may be provided under subsection (h)(1)(B) to any elementary or secondary school, or any library, unless it provides the certification required by paragraph (2) or (3), respectively.

"(2) CERTIFICATION FOR SCHOOLS.—Before receiving universal service assistance under subsection (h)(1)(B), an elementary or secondary school (or the school board or other authority with responsibility for administration of that school) shall certify to the Commission that it has—

"(A) selected a system for computers with Internet access to filter or block matter deemed to be inappropriate for minors; and

"(B) installed, or will install as soon as it obtains computers with Internet access, a system to filter or block such matter.

"(3) CERTIFICATION FOR LIBRARIES.—Before receiving universal service assistance under subsection (h)(1)(B), a library that has a computer with Internet access shall certify to the Commission that, on one or more of its computers with Internet access, it employs a system to filter or block matter deemed to be inappropriate for minors. If a library that makes a certification under this paragraph changes the system it employs or ceases to employ any such system, it shall notify the Commission within 10 days after implementing the change or ceasing to employ the system.

"(4) LOCAL DETERMINATION OF CONTENT.—For purposes of paragraphs (2) and (3), the determination of what matter is inappropriate for minors shall be made by the school, school board, library or other authority responsible for making the required certification. No agency or instrumentality of the United States Government may—

"(A) establish criteria for making that determination;

"(B) review the determination made by the certifying school, school board, library, or other authority; or

"(C) consider the criteria employed by the certifying school, school board, library, or other authority in the administration of subsection (h)(1)(B).".

(b) CONFORMING CHANGE.—Section 254(h)(1)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(1)(B)) is amended by striking "All telecommunications" and inserting "Except as provided by subsection (l), all telecommunications".

Mr. MCCAIN. Mr. President, I know the hour of 12:30 has arrived, but I ask unanimous consent to speak for 1 minute past the recess time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I thank the manager and the Democrat ranking member for allowing us to lay down these two amendments. We will be glad to discuss and debate them at a time most convenient for the managers of the bill.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ROBERTS).

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3228

The PRESIDING OFFICER. The business before the Senate is Amendment No. 3228 offered by Senator MCCAIN of Arizona.

Mr. SMITH of Oregon. Mr. President, I thank Senator GREGG for giving me a few minutes to speak in morning business. I ask unanimous consent that I might do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. SMITH of Oregon pertaining to the introduction of the legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Several Senators addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the McCain No. 3228 amendment to Amendment No. 3227.

Mrs. MURRAY. Mr. President, I come to the floor today to join my colleague from Arizona, Senator MCCAIN, in urging the Senate to adopt our Internet filtering amendment, the Childsafe Internet bill.

We come here today for one simple reason: to find a way to protect children on the Internet. The Internet is growing and expanding faster than we ever thought possible. It has become a daily tool for many Americans. As the Internet continues to grow, I believe it is our responsibility to do something to protect children from harmful material.

I have worked hard over the last 6 years to get computers and technology into our schools. I have sponsored legislation to allow surplus Government computers to be put into schools. The Senate, in fact, just passed my Teacher Technology Training Act, to make sure teachers can incorporate technology into their curriculum.

I have worked hard to establish the e-rate to help our schools get connected to the Internet. I have been out in schools, and I know personally what a great educational tool the Internet can be. And I represent a state that is leading the way in many of these new technologies.

I want our students and I want our teachers to have access to this information. But, as we continue to see, there is a small amount of information on the Internet to which children should simply not have access.

In fact, a 1997 national survey of U.S. public libraries and the Internet revealed that students often unintentionally download pornography while on the Net. Mr. President, 22 percent of the children surveyed admitted that this had happened in school, while 25 percent admitted it had occurred in a public library.

I understand no solution is perfect. Technology alone won't filter every objectionable item on the Internet. We

must remember, though, that this technology has made enormous strides in just a short amount of time.

I have heard from people who say health information, such as breast cancer, would be blocked from viewing. That may have been the case, but filtering companies have developed new technologies and are employing new procedures that do protect children while allowing more and more educational information to be used.

Our legislation is a first step. It is the right thing to do. The Childsafe Internet bill would simply require any school or library that gets reduced Internet access, the e-rate, to install some technology on their computers that keeps inappropriate material away from young children.

What is great about our bill is that it gives power to local school districts and libraries to determine which filtering device to use and what constitutes inappropriate material. Decisions must remain at the local level with those who best know their students.

Mr. President, let me give a few examples I have heard of the need for the Childsafe Internet Act.

Last month, a seventh grade teacher in Washington state told me that it was impossible to watch 30 young students at their computers all of the time. She did not want a situation in which a child found inappropriate material, complained to their parents, and then have a parent come screaming back to the classroom, where the teacher was ultimately responsible. She turned off the Internet.

I do not want that to happen. I ask unanimous consent to have printed in the RECORD a number of letters I have received from parents about the need for this bill.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

APRIL 19, 1998.

DEAR SENATORS: You were both in Vancouver this week, and I wasn't able to reach you through your office. Would you please update me on the status of SB 1619 the Internet School Filtering Act? In SW Washington, the regional group reported that they are the state internet provider service is looking at filtering at the state level as a result of SB 1619. As you can see from this report, filtering isn't perfect. However, without any filtering, far more youth at much younger ages come up with inappropriate material.

In Camas, pop. 9000, elementary students are not allowed to do searches on the internet for this reason. There is no reason to allow technology to serve as an excuse for lowering standards of acceptable material in publicly funded institutions. The Camas library continues to fight filtering, and points to the schools lack of one as justification. The Ft. Vancouver library board most recently on Monday April 13 though optional filtering was a good idea. That defeats the whole purpose and keeps the porn option wide open to kids. I hope you got my report of abuses noted. If they had a log like this, I'm sure the number of accesses reported would be much higher. Please continue to work so that our tax dollars do not found porn and inappropriate material to children. Thank you for your time to reply please. E-mail is best, since it is faster, and a number of meetings are coming up the first week in May.

Sincerely,

MARGARET TWEET.

MAY 29, 1998.

Senator Patty Murray,

Attn: Kay

DEAR KAY: This also came out today. Ft. Vancouver records show one employee who quit rather than provide porn to minors with that as the stated reason. At the KOMO Town Hall, another Washington librarian announced she made the same decision after 6 months of wrangling over whether providing access to internet porn to a 14 year old patron was a part of her job she could live with. Adult businesses cannot sell pornography to children, an indication of public policy. It should not be an option for youth in libraries either. Thank you again for your time.

Sincerely,

MARGARET TWEET.

MAY 17, 1998.

To: Senator Murray,

Subject: Filtering Library Internet Access.

DEAR SENATOR MURRAY: I just finished watching Town Meeting on ABC. You go girl! I am a parent of a 17 month old. I am horrified that she could go to the library in 4 years and pull up pornography or any other sexual sites. Yes, the library is a public place, that does not mean they have to provide information about such things. Why protect the bad guys when children are our future. And people wonder how this world came to what it is now with these kind of issues. If someone wants to look at pornography let them buy their own computer and do it in the privacy of their own home, not expose our kids to it, that's just what the sickos want. I'm with you all the way. Even if the filtering isn't perfect, software companies will continue to upgrade and patch their software, and why not do what we can now to protect our children!!!!

Good luck June 9th, you have our prayers.

SHELTON, WA,
May 30, 1998.

To: Senator Murray.

Subject: Cyber porn.

SENATOR MURRAY: You and I disagree on most issues, but on the issues of limiting access to highly graphic pornography to children on the Internet is something we do agree upon.

I support the concept of schools mandated to utilize an electronic block to preclude elementary, middle school, and high school students from entering pornographic websites. There isn't any defensible reason why these websites should be available for the children to explore. I am certain most parents do not allow their children to surf porn sites so at home, and the same expectation is needed to protect the children while they are in school.

The technology is currently available for school districts to block out websites which are deemed pornographic. This does not in anyway impede the purveyors and pimps of this demeaning material of their First Amendment rights. You would defend these children if some individual were to turn the school into a toxic waste dump. The same fervor is needed to prevent pornographic pollutants from being introduced into the minds of impressionable children.

Since the educational establishment benefits from taxpayer dollars, it is not an onerous request to have this country's school system voluntarily act upon this issue in a responsible manner. School districts which are non-compliant may have their federal funding significantly impacted until compliance is gained.

Thank you for taking this time to read my this piece of email.

JEFFREY K. MEYERS.

BELLEVUE, WA,
February 11, 1998.

Hon. PATTY MURRAY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MURRAY: My family has a concern regarding pornography on the Internet that is dramatically different than you may have been asked to look into or even aware of. A few days ago, our fifteen year old daughter was doing school work using the Internet. The address for one of the most popular search engines is, "www.infoseek.com." She made a one adjacent character key typing error and typed, "www.infoseel.com."

She was shocked, stunned, and nauseated at the vile explicit pictures that instantly were presented on the screen. Enclosed are black and white print outs. As you can see the first shows anal intercourse with the text, "Free Live Fucking, Now With Sound." The second is a gynecological close-up with the text, "hot hole, enter free." This brought our traumatized daughter running out of the room in tears.

This kind of revolting garbage has no place in our home and no place in American society. There are two aspects of this issue that warrant federal action. One, the people behind this website, by their intentional choice of their URL address, were seeking to put their pornography in front of those who made reasonably foreseeable typing errors. This amounts to intentional interstate delivery of pornography to minors. It should be immediately prosecuted as such.

Second, the National Science Foundation assigns the Internet URL addresses. It should be a simple matter for Congress to legislate the denial of URL addresses to people and organizations who engage in this kind of malicious perversion.

The apologists for the present laissez faire state of affairs on the Internet are fond of telling us parents that it's our responsibility to supervise our own children. This disgusting incident proves that to be a totally inadequate approach, and is in fact a self serving ruse. My family sees this as nothing less than visual child rape. Please let me know what actions you can take to quickly curtail this abuse and protect our children from this kind of intrusive filth.

Sincerely,

DOCK BROWN.

BOTHELL, WA,
February 26, 1998.

Subject: Childsafe Internet Bill.

I am writing to urge your support of the Childsafe Internet Bill being pushed by Senators JOHN MCCAIN, PATTY MURRAY and others which will limit the right of access by children to smut on the internet when federally funded commuters are used in classrooms.

This one is a "no-brainer". Institutions who want federal money to buy computers must agree to block and/or filter pornography when children are using computers in the classroom.

Will you support the Childsafe Bill?
Respectfully,

VINCENT T. SAULIN.

OAK HARBOR, WA,
November 4, 1997.

TOM MAYER,
Director,
Marysville, WA.

DEAR MR. MAYER: For over a year people in our community have been doing research on children's access to pornography on the Internet at public libraries. Among other material such as feature articles in "The Wall Street Journal," and "New York Times, " and numerous news magazines, we have studied the "Report and Recommendation on Internet Filtering Software and Its Use in Public Libraries, July 1997", prepared by the Sno-Isle Regional Library System.

We sincerely hope that we can persuade the Sno-Isle Library system to install filters on the juvenile computers. We believe that the filters are a sensible and reasonable way of copying with the problem.

A list of our concerns is attached, but the basis of our decision is as follows:

1. Public libraries have always been held accountable for their resource material, especially where children's sections are concerned.

2. The Internet should pass the same criteria as all other material.

3. Filtering software is available to block child pornography and other smut sites, and libraries all across the country have installed this software without any legal challenges so far.

We urge the Sno-Isle Library system to follow the advice of your internal staff report of July 1997, which recommended filtering software on juvenile computers.

Someone has to speak for our children. We the parents, grandparents, teachers, law enforcement officers and social service workers are doing just that.

May we hear from you soon?

Sincerely yours,

TRUDY J. SUNDBERG,
Founder, Save Our Kids Crusade.

Mrs. MURRAY. My concern is if we don't act now to do something about this issue, teachers and librarians across the country will begin turning computers off, preventing children access to this valuable educational tool. None of us wants that to happen.

The Childsafe Internet bill is the right way to go. It allows local schools districts to make important decisions about Internet content. It is a common sense solution. We have provided this Internet access through the E-rate. Now we must finish the job by providing our teachers and parents with the right tools to help educate our children.

Most parents would not send a child to a playground in their local community unsupervised. We cannot allow our young children to be in the Internet unsupervised.

Lets give our teachers and librarians some help, our parents some control, and truly pass legislation that will protect America's next generation.

I yield the floor.

Mr. LEAHY. Mr. President, I oppose Senator MCCAIN's amendment, originally introduced as S. 1619, to require schools and libraries wired with federal funds to install Internet filtering software. Congress has wisely seen fit to make the Internet widely available to young people throughout the country by subsidizing school and library access to the Internet through "E-rate" discounts. The McCain amendment would undermine the benefits of that access by forcing schools and libraries to use filtering technologies to remove a significant percentage of material available on-line. Internet filtering issues should be discussed and implemented locally, not nationally, and certainly not by piggybacking a filtering bill onto a crime bill and spiriting them to the Senate floor as amendments to an appropriations bill.

While we can all agree that some material available on the Internet may be unsuitable for certain age groups, there is serious disagreement concerning the best approach to the challenge of protecting our children from exposure to unsuitable material. Fundamentally, this is a decision that should be made at the local level, by families and school boards, librarians and educators in their own communities. Although I share the deep concerns about children's access to obscenity and other harmful materials on the Internet, in the rush to protect children, we should not unnecessarily chill the freedom of expression that occurs on-line.

The intention of this amendment is good. But good intentions do not always make for the best policy. The primary problem with this amendment is that it usurps local authority on whether to use filtering technologies on computers with Internet access. That's why educators oppose it. The National Education Association and the American Association of School Administrators testified before the Commerce Committee that they opposed making E-rate discounts contingent upon installation of blocking or filtering software. Imposing a top-down mandate requiring schools to install filtering software as a condition for accessing E-rate discounts violates the principle of local control of curricular matters.

Placing the burden on libraries, schools, and other public institutions to supervise our children's access to information is also counterproductive. Schools have already been forced to comply with extensive congressional and FCC requirements to participate in the E-rate program. Forcing schools to comply with further requirements would strain the already overburdened financial and staff resources of the nation's schools. Although at first blush this requirement does not appear to be overburdensome, given the number of federal requirements with which schools and libraries receiving Federal assistance already must comply, the mandate would require extensive research, installation and implementation. Some of our local schools already have their own systems in place to monitor Internet access. The McCain amendment could force them to scrap these systems and start from scratch. A number of schools and libraries have not yet even received the computers and technologies to gain access to the Internet, and are in the process of applying for E-rate funding to obtain infrastructure, such as wiring and connectivity. Schools may be unable to make the requisite demonstration as to how the filtering software will be implemented if their computers are not yet in place.

The goal of the federal Internet subsidies is to give our schools, libraries and public institutions open and universal access to the technology and information that will help prepare our children and young adults for the challenges that lie ahead in the next century. By making the subsidy available, we are helping to bridge the gap between wealthier and poorer communities' access to information. The McCain amendment would widen the gap. Wealthier schools that do not receive the subsidy are permitted, within First Amendment bounds, to decide for themselves whether or not to place limits on Internet use. Requiring use restrictions is one more way of telling subsidized schools that they are not trusted to make these decisions for themselves. This is precisely the type of access inequality that the federal E-rate subsidy was designed to cure, not foster.

Wresting control of educational and informational access from the local communities that are best equipped to make these decisions is not going to solve the problem of inappropriate material on the Internet. Filtering software is one way of restricting the access by minors to such material, but other options exist. Local school boards, administrators, and librarians more familiar with their own systems and culture are the proper people to decide how best to implement any programs restricting access to information.

I would support efforts to address these issues that allow more flexibility at the local level. Instead of a blanket mandate requiring filtering and blocking technology in all schools and libraries that receive E-rate subsidies, we should have more research into how to combat the problem of minors receiving inappropriate information over the Internet in e-mail messages and in chatrooms. We should encourage schools and libraries to distribute their policies to parents, educators, children, and community members, and to state whether they use any technological means to block access to inappropriate materials.

There are more sensible approaches. We should alert our communities to the potential problems of inappropriate

materials on the Internet, and allow and encourage informed decision-making at the local level. That is why I have created a page on my website dedicated to providing guidance to parents and educators on how to protect children from inappropriate material online. But above all, we should support the mission behind the E-rate subsidy: open and universal access to technology and information.

Our children and our schools need as much support as we can possibly offer to help prepare the next generation to meet the challenges that lie ahead.

Mr. President, with reference to the amendment offered by Senator COATS, less than three years ago, during the 104th Congress, the Senate voted overwhelmingly to adopt the Communications Decency Act as part of the telecommunications deregulation bill. The CDA, like the current amendment, sought to criminalize the transmission of constitutionally protected speech over the Internet. I opposed the CDA from the start as fatally flawed and flagrantly unconstitutional. I predicted that the CDA would not pass constitutional muster and, along with Senator FEINGOLD, I introduced a bill to repeal the CDA so that we would not have to wait for the Supreme Court to fix our mistake.

We did not fix the mistake and so, as I predicted, the Supreme Court eventually did our work for us. All nine Justices agreed that the CDA was, at least in part, unconstitutional. Justice Stevens, writing for seven members of the Court, called the CDA "patently invalid" and warned that it cast "dark shadow over free speech" and "threaten[ed] to torch a large segment of the Internet community."

The Court's decision came as no surprise to me, and it should have come as no surprise to the 84 Senators who supported the legislation. One of the sponsors of the current amendment said in a floor statement last Friday that the Supreme Court should have approved the CDA because the law used the same indecency standard that the Court had previously approved in connection with the dial-a-porn statute. This statement puzzled me because, as I recall, the Court did not approve the indecency standard in the dial-a-porn statute. The Court approved that statute only insofar as it applied to obscene communication, which can be banned totally because it is not protected by the First Amendment. The Court invalidated the dial-a-porn statute as it applied to indecent communication, which does enjoy First Amendment protection. This is precisely the same distinction that the Court drew in the CDA case, where it struck down the restrictions on indecent material, but left the restrictions on obscene material standing. The CDA decision followed the dial-a-porn decision; it did not break new ground in that regard.

Now here we are, again, taking another stab at censoring constitutionally protected speech on the Internet, again, in the name of protecting children. Of course, we all want to protect children from harm. I prosecuted child abusers as State's Attorney in Vermont, and have worked my entire professional life to protect children from those who would prey on them. But we have a duty to ensure that the means we use to protect our children do not do more harm than good. As the Supreme Court made clear when it struck down the CDA, laws that prohibit protected speech do not become constitutional merely because they were enacted for the important purpose of protecting children.

The amendment makes a valiant effort to address many of the Supreme Court's technical objections to the CDA. But while it is more narrowly drawn, it still raises substantial constitutional questions. The core holding of the CDA case was that "the vast democratic fora of the Internet" deserves the highest level of protection from government intrusion—the highest level of First Amendment scrutiny. Courts will assess the constitutionality of laws that regulate speech over the Internet by the same demanding standards that have traditionally applied to laws affecting the press.

The current amendment does not meet those standards. For one thing, it calls for a single, national definition of the "harmful to minors" standard, which until now has always been defined at the State or local community level. We should not forget the Supreme Court's admonition in Miller versus California that: "our Nation is simply too big and too diverse . . . to reasonably expect that such standards could be articulated for all 50 States in a single formulation. . . . It is neither realistic nor constitutionally sound to read the First Amendment as requiring that the people of Maine or Mississippi accept public depiction of conduct found tolerable in Las Vegas, or New York City."

In addition, the way in which the amendment defines "material that is harmful to minors" is not altogether consistent with prior law. The sponsor says that the definition was taken "word for word" from the Ginsberg case, but the fact is that several important terms were altered or omitted. This could be confusing, and it could well have the unintended consequence of limiting the meaning of state "harmful to minors" laws.

The strict liability provisions of the amendment are another matter of concern. The amendment imposes criminal liability and authorizes severe criminal and civil sanctions on anyone who fails to take affirmative steps to restrict access of certain materials by minors. There is no requirement that the person acted knowingly, willfully, or even with criminal intent. The strict liability imposed by the amendment would chill content on the Web. Also, since this amendment only applies to the Web, I am concerned that if it becomes law it would pressure Internet content providers and users to use or develop other protocols with which they would be able to exercise their First Amendment rights unfettered by the threat of strict liability criminal prosecution.

There are other problems with the scope of the amendment. It does not define who would be covered by the crucial phrase "engaged in the business of the commercial distribution of material." Would the amendment cover companies that offer free Web sites, but charge for their off-line services? Also, if we restrict coverage to commercial distributions, are we just encouraging people to post the very same obnoxious materials on the Web for free? Is that what we want?

Further, it is entirely unclear whether the amendment's affirmative defense provision can be used in the civil context, since it states that it is a defense to "prosecution" under the amendment. Would companies that restrict access to their Web sites in accordance with FCC procedures nonetheless be exposed to the stiff civil penalties established by the amendment?

We can and must do better. There are other more effective and less restrictive solutions—solutions like filtering technology, which empower individual Internet users without reducing the level of discourse over the Web to what would be suitable for a sandbox. This amendment, like its predecessor, places an unacceptably heavy burden on protected speech. We should not run another ambiguous speech regulation up the flagpole and expect the courts to salute. We owe it to the millions of Americans who use the Web not to make the same mistake a second time.

Finally, I note that the Senate is considering this important measure, including its creation of new federal crimes, as part of an annual appropriations bill. Until recently the Senate had rules and precedent against this kind of legislating on an appropriations bill. Under Republican leadership, that discipline has been lost and we are left to consider significant legislative proposals as amendments to annual appropriations. These matters are far-reaching. They deserve full debate and Senate consideration before good intentions lead the Senate to take another misstep in haste.

Mr. BURNS. Mr. President, I would like to state for the record that I continue to have serious reservations about the federal government mandating the use of specific technologies to solve the problem of schoolchildren's access to inappropriate material on the Internet. I believe that school boards are much more effective in making decisions about appropriate

policy or technology when dealing with Internet access for students than Washington. Advances in technology have brought wonderful opportunities, but we must not rely on technology to deal with complex public policy questions. Congress sets a dangerous precedent by stamping its "seal of approval" on software that may be obsolete next year or even next week.

I initially expressed my reservations about a bill which would require mandated filtering systems, S. 1619, during the Commerce Committee markup that was held this past March. I considered offering an amendment during the markup that would have required schools and libraries to certify that they had appropriate Internet Acceptable Use Policies in place in order to receive universal service funding. The Chairman of the Commerce Committee assured me that if I were to pull my amendment he would be open to working with me to reach a compromise on the issue. Upon receiving this assurance, I withdrew my amendment.

Over the last several months, I have held numerous meetings among all of the parties involved in the markup in an effort to reach consensus. My office has had an open door policy and had significantly altered the original language to expand its scope to reflect the concerns of my colleagues. The draft compromise amendment I was prepared to offer required that schools have Internet use policies in place that address not only access to the World Wide Web, but also the security of schoolchildren when using E-mail and chat rooms. These policies would have to be public, widely distributed and effective. Furthermore, the compromise amendment would significantly expand criminal penalties on "cyberstalkers"—criminals who use computers to exploit or abuse children.

The compromise amendment has achieved significant support because of its inclusion of these vital matters and its reliance on local communities rather than federal mandates.

I am deeply disappointed that the Chairman of the Commerce Committee chose not to compromise on this very important issue. I had anticipated that this issue would be dealt with in its own right and that we would have several hours of debate to deal with S. 1619 and the amendment I had planned to offer along with several of my colleagues. Instead, it was attached to the Commerce-Justice-State appropriations bill today. I did not express my opposition to the inclusion of S. 1619 because I did not want to hold up the passage of crucial Commerce-State-Justice appropriations. However, I want to make it very clear that I remain steadfastly opposed to big government mandates on the filtering issue and I will work closely with my colleagues as S. 2260 heads to conference to perfect the bill to reflect these concerns.

I continue to believe that local communities acting through their school and library boards, rather than software programs that are at best questionable or the federal government, are in the best position to make decisions on this critical issue.

The PRESIDING OFFICER. The distinguished Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I urge the pending amendment to the amendment, by Senator MCCAIN, be accepted.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I think the distinguished Senator from Washington has really outlined the concerns of both sides of the aisle. The Senator from Arizona has a good initiative here. Without further comment on our side we accept the amendment.

The PRESIDING OFFICER. Without objection, the second-degree and first-degree amendments are agreed to.

The amendment (No. 3228) was agreed to.

The amendment (No. 3227), as amended, was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The distinguished Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I do not want to interfere with the managers and their schedule. I wonder if the manager would be in disagreement if I sent an amendment to the desk at this time or did he have other plans?

I ask unanimous consent to yield to the distinguished manager.

Mr. GREGG. I understood the Senator from California was going to offer an amendment, and the Senator from Minnesota was going to offer an amendment. We were going to alternate. I ask the Democratic floor manager how he feels about it.

Mr. HOLLINGS. I think the Senator from Arizona should proceed.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3229

(Purpose: To amend the Communications Act of 1934 to promote competition in the market for delivery of multi-channel video programming and for other purposes)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for himself and Mr. BURNS, proposes an amendment numbered 3229.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . MULTICHANNEL VIDEO PROGRAMMING.

(a) FINDINGS.—

(1) The Congress finds that:

(A) Signal theft represents a serious threat to direct-to-home satellite television. In the Telecommunications Act of 1996, Congress confirmed the applicability of penalties for unauthorized decryption of direct-to-home satellite services. Nevertheless, concerns remain about civil liability for such unauthorized decryption.

(B) In view of the desire to establish competition to the cable television industry, Congress authorized consumers to utilize direct-to-home satellite systems for viewing video programming through the Cable Communications Policy Act of 1984.

(C) Congress found in the Cable Television Consumer Protection and Competition Act of 1992 that without the presence of another multichannel video programming distributor, a cable television operator faces no local competition and that the result is undue market power for the cable operator as compared to that of consumers and other video programmers.

(D) The Federal Communications Commission, under the Cable Television Consumer Protection and Competition Act of 1992, has the responsibility for reporting annually to the Congress on the state of competition in the market for delivery of multichannel video programming.

(E) In the Cable Television Consumer Protection and Competition Act of 1992, Congress stated its policy of promoting the availability to the public of a diversity of views and information through cable television and other video distribution media.

(F) Direct-to-home satellite television service is the fastest growing multichannel video programming service with approximately 8 million households subscribing to video programming delivered by satellite carriers.

(G) Direct-to-home satellite television service is the service that most likely can provide effective competition to cable television service.

(H) Through the compulsory copyright license created by section 119 of the Satellite Home Viewer Act of 1988, satellite carriers have paid a royalty fee per subscriber, per month to retransmit network and superstation signals by satellite to subscribers for private home viewing.

(I) Congress set the 1988 fees to equal the average fees paid by cable television operators for the same superstation and network signals.

(J) Effective May 1, 1992, the royalty fees payable by satellite carriers were increased through compulsory arbitration to $0.06 per subscriber per month for retransmission of network signals and $0.175 per subscriber per month for retransmission of superstation signals, unless all of the programming contained in the superstation signal is free from syndicated exclusivity protection under the rules of the Federal Communications Commission, in which case the fee was decreased to $0.14 per subscriber per month. These fees were 40–70 percent higher than the royalty fees paid by cable television operators to retransmit the same signals.

(K) On October 27, 1997, the Librarian of Congress adopted the recommendation of the Copyright Arbitration Royalty Panel and approved raising the royalty fees of satellite

carriers to $0.27 per subscriber per month for both superstation and network signals, effective January 1, 1998.

(L) The fees adopted by the Librarian are 270 percent higher for superstations and 900 percent higher for network signals than the royalty fees paid by cable television operators for the exact same signals.

(M) To be an effective competitor to cable, direct-to-home satellite television must have access to the same programming carried by its competitors and at comparable rates. In addition, consumers living in areas where over-the-air network signals are not available rely upon satellite carriers for access to important news and entertainment.

(N) The Copyright Arbitration Royalty Panel did not adequately consider the adverse competitive effect of the differential in satellite and cable royalty fees on promoting competition among multichannel video programming providers and the importance of evaluating the fees satellite carriers pay in the context of the competitive nature of the multichannel video programming marketplace.

(O) If the recommendation of the Copyright Arbitration Royalty Panel is allowed to stand, the direct-to-home satellite industry, whose total subscriber base is equivalent in size to approximately 11 percent of all cable households, will be paying royalties that equal half the size of the cable royalty pool, thus giving satellite subscribers a disproportionate burden for paying copyright royalties when compared to cable television subscribers.

(b) DBS SIGNAL SECURITY.—Section 605(d) of the Communications Act of 1934 (47 U.S.C. 605) is amended by adding after "satellite cable programming," the following: "or direct-to-home satellite services,".

(c) NOTICE OF INQUIRY; REPORT.—Section 628 of the Communications Act of 1934 (47 U.S.C. 548) is amended by adding at the end of subsection (g): "The Commission shall, within 180 days after enactment of the Act making appropriations for the Department of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year evolving September 30, 1998, initiate a notice of inquiry to determine the best way in which to facilitate the retransmission of distant broadcast signals such that it is more consistent with the 1992 Cable Act's goal of promoting competition in the market for delivery of multichannel video programming and the public interest. The Commission also shall within 180 days after such date of enactment report to Congress on the effect of the increase in royalty fees paid by satellite carriers pursuant to the decision by the Librarian of Congress on competition in the market for delivery of multichannel video programming and the ability of the direct-to-home satellite industry to compete.".

(d) EFFECTIVE DATE.—Notwithstanding any other provision of law, the Copyright Office is prohibited from implementing, enforceing collecting or awarding copyright royalty fees, and no obligation or liability for copyright royalty fees shall accrue pursuant to the decision of the Librarian of Congress on October 27, 1997, which established a royalty fee of $0.27 per subscriber per month for the retransmission of distant broadcast signals by satellite carriers, before January 1, 2000.

Mr. MCCAIN. Mr. President, today I offer an amendment to H.R. 2260 that will keep consumer prices for satellite TV service from abruptly increasing and, thereby, promote competition in the market for delivery of multichannel video programming. This amendment was originally introduced as S. 1422, the Federal Communications Commission Satellite Carrier Oversight Act. Twenty-seven Members of the Senate are cosponsors of S. 1422. I ask unanimous consent that the list of cosponsors be printed.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

S. 1422

SPONSOR

Senator McCain (introduced 11/07/97)

27 COSPONSORS

Senator Burns—11/07/97
Senator Dorgan—11/07/97
Senator Collins—01/28/98
Senator Craig—01/28/98
Senator Hutchinson—01/28/98
Senator Murkowski—01/28/98
Senator Inouye—02/03/98
Senator Bryan—02/09/98
Senator Hollings—02/23/98
Senator Gorton—02/23/98
Senator Baucus—02/24/98
Senator Kerrey—02/27/98
Senator Enzi—03/11/98
Senator Cleland—05/07/98
Senator Conrad—11/07/97
Senator Brownback—01/28/98
Senator Coverdell—01/28/98
Senator Hagel—01/28/98
Senator Inhofe—01/28/98
Senator Roberts—01/28/98
Senator Allard—02/04/98
Senator Snowe—02/11/98
Senator Robb—02/23/98
Senator Johnson—02/24/98
Senator Kerry—02/24/98 (withdrawn—02/27/98)
Senator Sessions—03/09/98
Senator Chafee—03/31/98
Senator Smith, Bob—06/01/98

Mr. MCCAIN. Mr. President, the bill was reported unanimously by the Commerce Committee.

Mr. President, with cable television rates increasing at seven times the Consumer Price Index and three times the rate of inflation, Congress has an urgent interest in assuring that consumers have a choice of video providers at competitive rates. However, recent regulatory action threatens to raise the rates consumers pay for satellite television service, and therefore will hurt the ability of satellite television operators to compete effectively with cable operators.

On October 27, 1997, the Librarian of Congress adopted a precipitous and unjustified increase in the copyright fees satellite carriers pay for superstation and network affiliate signals delivered to satellite TV households.

Before this increase, satellite copyright rates were 14 cents per subscriber per month for each superstation signal and 6 cents per subscriber per month for each network signal. Cable operators, by comparison, pay much less for the same signals—an average of 9.7 cents for the exact same superstations and 2.7 cents for the exact same network signals. But, under the new copyright rates adopted last October, satellite carriers are forced to pay almost 270% more than cable pays for superstation signals, and 900% more than cable pays for network signals.

These new copyright rates would add substantially to the regulatory and technical barriers satellite carriers already face in providing service that customer consider a fair substitute for cable television. They will hit consumers in rural areas particularly hard, because residents in those areas have traditionally relied on reasonably-priced satellite TV service as their only source of multichannel TV.

This amendment rolls this unreasonable satellite TV copyright rate increase back to the rates in effect prior to January 1st of this year, and it delays the effective date of the rate increase to January 1, 2000.

Mr. President, the 7.5 million U.S. households who currently subscribe to satellite television deserve to have the effect of this copyright fee increase on video competition reconsidered to ensure a less arbitrary and more consumer friendly result. This delay will give the FCC an opportunity to analyze the impact increased copyright fees would have on satellite's ability to compete with cable, and it will give Congress an opportunity to evaluate the FCC's report and respond accordingly.

The bill also addresses an issue of continuing concern to the satellite TV industry. Signal theft represents a serious threat to satellite TV operators. In the Telecommunications Act of 1996, Congress confirmed the applicability of penalties for unauthorized decryption of satellite TV services. The amendment we propose would confirm the judicial interpretation that civil suits may be brought by satellite TV operators for signal theft.

I thank the 27 Senators who co-sponsored this bill which affects every single consumer of multichannel video service.

Mr. President, I thank the managers for allowing me to propose this amendment. Let me say briefly, we all know that cable rates are on the rise, that the American consumers are very angry about it and they want competition. This will provide more competition.

There are other areas where we can provide more competition, such as the ability to broadcast local news and local weather. Even the cable industry does not oppose this move, because they know that in the interest of fairness, we need to have a better equalization of these copyright fees.

I hope we can have the amendment adopted. I thank the managers of the bill. I thank the Senator from California if I went ahead of her in the queue. Mr. President, I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I am not sure if the Senator from South Carolina wants to make a statement, but we are ready to accept this amendment.

Mr. HOLLINGS. I urge adoption of the amendment.

Mr. GREGG. I ask unanimous consent that the amendment be adopted.

The PRESIDING OFFICER. Is there further debate on the amendment? Hearing none, without objection, the amendment is agreed to.

The amendment (No. 3229) was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from California is recognized.

Mrs. BOXER. Thank you very much, Mr. President.

AMENDMENT NO. 3230

(Purpose: To amend chapter 44 of title 18, United States Code, to improve the safety of handguns)

Mrs. BOXER. Mr. President, I send an amendment to the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mr. KOHL, proposes an amendment numbered 3230.

Mrs. BOXER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. 1 . CHILD SAFETY LOCKS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'locking device' means a device or locking mechanism—

"(A) that—

"(i) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

"(ii) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

"(iii) is a safe, gun safe, gun case, lock box, or other device that is designed—

"(I) to store a firearm; and

"(II) to be unlocked only by means of a key, a combination, or other similar means; and

"(B) that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred.".

(b) UNLAWFUL ACTS.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

"(y) LOCKING DEVICES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the—

"(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a firearm; or

"(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a firearm for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a firearm for purposes of law enforcement (whether on or off duty).".

(2) EFFECTIVE DATE.—Section 922(y) of title 18, United States Code, as added by this subsection, shall take effect 150 days after the date of enactment of this Act.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this section shall be construed to—

(A) create a cause of action against any firearms dealer or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this section.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(y) of that title.

(d) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(2) by adding at the end the following:

"(p) PENALTIES RELATING TO LOCKING DEVICES.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

"(i) suspend or revoke any license issued to the licensee under this chapter; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.".

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 150 days after the date of enactment of this Act.

Mrs. BOXER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3231 TO AMENDMENT NO. 3230

(Purpose: To provide that the amendments made to title 18, United States Code, shall take effect 180 days after enactment)

Mrs. BOXER. Mr. President, I send a second-degree amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California (Mrs. BOXER) proposes an amendment numbered 3231 to amendment No. 3230.

Mrs. BOXER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

1 . CHILD SAFETY LOCKS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'locking device' means a device or locking mechanism—

"(A) that—

"(i) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

"(ii) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

"(iii) is a safe, gun safe, gun case, lock box, or other device that is designed—

"(I) to store a firearm; and

"(II) to be unlocked only by means of a key, a combination, or other similar means; and

"(B) that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred.".

(b) UNLAWFUL ACTS.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

"(y) LOCKING DEVICES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the—

"(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a firearm; or

"(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a firearm for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a firearm for purposes of law enforcement (whether on or off duty).".

(2) EFFECTIVE DATE.—Section 922(y) of title 18, United States Code, as added by this subsection, shall take effect 180 days after the date of enactment of this Act.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this section shall be construed to—

(A) create a cause of action against any firearms dealer or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this section.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(y) of that title.

(d) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(2) by adding at the end the following:

"(p) PENALTIES RELATING TO LOCKING DEVICES.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

"(i) suspend or revoke any license issued to the licensee under this chapter; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.".

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. BOXER. Thank you very much, Mr. President.

The amendment in the second degree I have just sent to the desk requires that all handguns sold in the United States include a child safety lock. I am offering this amendment for one extremely simple reason: to keep our children safe.

The Centers for Disease Control reports that 1.2 million children have access to guns in the home, and a survey sponsored by the National Institutes of Justice found that 34 percent of handgun owners store their guns unlocked and loaded. As long as this continues to be the case, our children are not safe.

I have on this chart just some numbers. In one year, firearms killed no children in Japan—no children; 19 in Great Britain; 57 in Germany; 109 children were killed in France; 153 children were killed in Canada; and in the United States of America, the greatest democracy in the world, the greatest nation in the world, 5,285 children have been killed.

I know that some of my colleagues prefer that I not offer this amendment at this time. They will argue that my amendment is not germane under a strict definition of the term "germane," and I should wait until an authorization bill reaches the floor.

To those colleagues I say today that I have tried. For more than a year, I have waited for the Senate to consider a firearms bill or a crime bill, a juvenile justice bill, any bill to which I could attach this amendment.

As the Senate waited, our schools have exploded in an unprecedented series of shootings, many of which involved unlocked handguns stolen from the home of a friend or family member. As we waited, Mr. President, children across the country have died violent deaths.

I see my colleague from Illinois is here. He has worked on so many important issues, and he is working hard on this issue.

We were together just a few weeks ago with a mother who lost a child in the Arkansas shootout. She approached the microphone and, barely audibly, told us that we have to act. She understands, better than any of us, that our kids are dying. More kids are dying in this country than any other country. And it would be so simple to lower those numbers if we could get these safety locks on these weapons.

So we have waited. I think it is time that we stopped waiting. We have to ask ourselves, How many children must die before we decide it is time to act? We cannot wait. We cannot delay. We must act now. The safety of our children depend on it. I do not think any American wants to turn on the television and witness another one of these shootings that could have been prevented had there been a safety lock on the gun. I am not saying it would prevent every single accident. But, Mr. President, we know it would definitely prevent many of those shootings. We cannot delay.

Of these 5,285 children who were killed by firearms, Mr. President, 440 died as a result of accidental shootings—kids, little kids, usually shot by other little kids, playing with a gun, found in their parents' bedroom or at a friend's home. That is over one child per day.

Look at this chart, Mr. President.

"Boy paralyzed in a gun accident. Cousin, 9, mistakenly thought he removed the bullets from the gun, police say."

"Avra Valley boy shot to death as his best friend handled handgun."

"3-year-old finds gun, kills sister."

You know, we cannot be so jaded that we forget about the personal tragedies every family goes through when this happens. The mother from Arkansas, Suzann Wilson, told us, "I taught my daughter so many things," because she said that "it's a dangerous world." She said, "I taught her never to take a ride from a stranger. I told her, when you walk down the street at night, be with a friend." She said, "I taught her everything I thought I had to. But," she said, "I never taught her, 'Don't go outside when the fire alarm rings in school because some kid may have triggered the alarm and has a gun and is going to kill you.'"

And just listening to her words, we knew we had to act as soon as we could. I know my colleague from Illinois has been a leader in the area of the Brady bill and in the area of making parents responsible when children use a gun. All of these things together are important. And this is very important.

Mr. President, over one child a day—more than one child a day—dies by accident because they are doing what normal children do. Normal children, they explore, they are curious; they find a gun, and they shoot it.

I want to put back the other chart which shows those numbers one more time, because I hope Senators will take a look at these. I am going to expand on some of the stories that I talked about here.

The 3-year-old who found a gun and killed his sister from Fort Myers, FL. Colton Hinke and his 2-year-old sister Kaile were playing in their parents' bedroom when Colton found an unlocked, loaded handgun in a drawer. A neighbor who heard the shot rushed to the scene, found Kaile on her back—her face pale, her lips blue, a small hole in her chest. She was in shock. She was rushed to the hospital, but it was too late.

The neighbor told the Fort Myers News:

> She was a beautiful little girl. She had the biggest blue eyes. . . . The boy didn't even know what was going on. The hardest thing is that they are both innocent victims.

A little 3-year-old brother—it is unbelievable, an accidental shooting of probably the little human being in his life he loved more than anything else.

From Kansas City, KS, a 1-year-old Kansas City girl, shot in the head. Here it is. "1-year-old Kansas City, Kansas, girl shot in the head." This article tells the story of a 1-year-old girl critically

injured when shot in the head by her 3-year-old brother.

Mr. President, something is desperately wrong. Their mother kept an unlocked, loaded handgun under her mattress to protect her family against intruders. But one evening, when she was changing the linens on her bed, she removed the handgun and placed it on a nightstand. It took a few seconds for the 3-year-old son to pick up the gun and shoot his little sister.

A neighbor took the baby to the hospital and later said that the mother "had the baby all covered up, but I could see a lot of blood. I haven't seen that much blood for a long, long time." Miraculously, Mr. President, the little girl survived.

And from Salt Lake City, UT, "Boy Playing With Gun Shoots and Kills 13-year-old Friend." Here it is—Salt Lake City. Three boys were playing in a Salt Lake City home when one found a loaded, unlocked handgun hidden behind the headboard in the master bedroom. You know, kids are very smart. You think you are hiding something from them, but they can find these things. They were horsing around in the bedroom and the gun fired. The victim was transported by helicopter to the hospital too late—he was declared dead an hour later.

Mr. President, I could go on and on. I am not going to take the time of the Senate to repeat all of these stories, because to repeat a story, behind every headline, it would just take too much of the Senate's time. And the other reason is that when you keep telling these stories, you get so sad that you do not want to keep on focusing on the past. But let us talk about what we can do, what we can do to prevent similar tragedies in the future.

My amendment does that. Again, it was carefully crafted by Senator KOHL, Senator DURBIN, and myself. Just think, if the parents of those children, whose terrible stories I have told, were given a safety lock when they bought their handguns, these senseless tragedies—every one of them that I cited here—could have been avoided.

So what is a child safety lock? And how does it work? A child safety lock is simple; it is inexpensive device, designed to prevent the use of a firearm by unauthorized users—very simple. The most common are trigger locks, which fit over the trigger of a gun; and chamber locks, which fit into a firearm's chamber, preventing it from discharging. I have seen these locks. I have used these locks. They are very, very simple to use.

My amendment also defines lockboxes—which are storage cases designed to hold guns securely—as child safety locks. If someone does not want to put a lock physically on the gun, they can lock it in a lockbox and it will qualify under the amendment. These devices are generally locked with a key, although combination and other kinds of locks are acceptable.

Safety locks work. But do not take my word for it. Listen to what Gun Tests magazine, a publication for gun enthusiasts, said about safety locks:

> If a lock is properly designed, it will ward off the curious fingers of those too young to handle firearms responsibly, while conveniently preserving access to guns used for self protection.

So if you need to have the gun for self-protection, it is there.

Even Charlton Heston, president of the National Rifle Association, expressed qualified support for safety locks during an appearance on "Meet the Press" last month.

It is important. We all love children here. Most of us are parents; many are grandparents. I think of my 3-year-old grandson. As responsible parents we ought to make sure that these lethal weapons cannot be used by children.

This amendment is not about taking people's guns away. It aims only to protect children while preserving a citizen's right to keep a firearm in the home for self-defense or any other legitimate purpose.

Again, Senator KOHL actually authored this bill and many of us are cosponsors. The good news is that many of the handgun makers have decided to do this voluntarily, about 75 percent of them. This is good news. The bad news is, 25 percent have not. That means there will be 350,000 guns sold which will not be sold with a safety lock.

If we pass this legislation, the voluntary agreement will move forward and we will make sure that those 350,000 guns that will not be covered by the voluntary agreement will be covered by a child safety lock.

If we pass this amendment, children will live who would otherwise die as a result of accidental gun shootings. Exactly how many? I don't know; let's look at those numbers again. Out of the 5,000 deaths of children, 440 were accidents. Mr. President, I believe of those accidents, we could stop the majority.

I am proud to stand here for the children, to protect them from safety and harm. Child safety locks will do that. I hope we will get an overwhelming vote.

I am happy to yield to my colleague.

Mr. DURBIN. I thank the Senator from California.

I rise in support of the Senator's amendment, first and second degree.

Mr. President, at this point, does the Senator from California retain the floor or is the correct procedure for me to ask for recognition under my own right?

The PRESIDING OFFICER. If the Senator from California is not going to yield the floor, the Senator can respond; if the Senator from California chooses to yield the floor, the Senator may rise and seek recognition.

Mrs. BOXER. I yield for a question to my friend so I can retain the right to the floor at this time.

Mr. DURBIN. I certainly rise in strong support of what the Senator from California is setting out to do. I want to acknowledge that she shares the important position that the Senator from Wisconsin, Senator KOHL, has taken on this legislation.

I have a query of the Senator from California. Many of the critics who come here saying this is unnecessary, it is impractical, are the same people who have lamented, along with all of America, the tragic loss of life involved in children picking up guns. I will offer another amendment later on dealing with what I believe to be the responsibility of gun owners when they have a gun in the presence of a child.

The Senator from California, though, really raises this question about a very important mechanical part of this equation: Shall we put on each handgun in America a device which will protect it so that if the gun owner is not present and a child picks it up, the child can't hurt himself?

I brought with me evidence of that, which I am happy to share with the Senator from California, to show exactly what we are talking about. This is a trigger lock. And this trigger lock, as the Senator from California has noted, is easily disengaged, just with the turn of the key, and opened.

I first saw one of these when I went to Elgin, IL, and the chief of police showed me that every officer going home in the evening takes a trigger lock and puts it on the gun. Of course, the officer may need the gun for self-defense or law enforcement; they don't think a trigger lock is an impediment. With the key not in it, that gun can't be used.

I pose this question to the Senator from California: Is the Senator from California aware that the Federal Bureau of Investigation requires that all of its agents have trigger locks on the guns that they take home in the evening?

Mrs. BOXER. I answer my friend in this way. I heard that is their advice. I was unaware it was a rule. Is my friend saying it is a rule?

Mr. DURBIN. Yes, it is. As a matter of fact, is the Senator aware of the fact that when Mr. Freeh, the Director of the Federal Bureau of Investigation, testified before the Senate Judiciary Committee last year, I asked point blank, "What has your experience been at the FBI with this policy that requires child safety locks or trigger locks to be used by every FBI agent?" And Director Freeh said, "I think it has worked very well. I think it hasn't impeded any readiness or ability to protect. I think it is a very simple but very wholesome requirement. Having five small boys myself, I think it is a very good idea, whether or not it is mandated."

I just ask the Senator from California, is she aware of any of the critics of this legislation who can overcome this testimony from the Director of the Federal Bureau of Investigation that they already use these trigger locks for law enforcement agents who take the guns home in an evening?

Mrs. BOXER. I think it is very difficult to take the other side of this issue. I am sure we will hear it, but try as I might, I can't understand one reason why we shouldn't do this. Seventy-five percent of the makers of guns, I say to my friend, have agreed to do this voluntarily, but still there are 25 percent of the guns that will come on to the market with no safety lock.

Mr. DURBIN. Can the Senator from California tell me what is the cost of one of these trigger locks?

Mrs. BOXER. Five to ten dollars each.

Mr. DURBIN. In my home State of Illinois, the City of Elgin, which has decided to pass a local law, actually subsidized the trigger lock sales so anyone coming to the police department could buy one for $3. So anywhere from $3 for a subsidized trigger lock to a maximum of $10 buys this peace of mind that I think is so important when we consider this trigger lock legislation.

I might ask the Senator from California, your legislation would require, then, a trigger lock be sold with each handgun?

Mrs. BOXER. That is correct. It would be part of the purchase, yes.

Mr. DURBIN. At this point, I yield the floor back to the Senator from California, and at such time as she is finished, I will address it myself.

Mrs. BOXER. I ask unanimous consent that at the conclusion of my remarks the Senator from Illinois be recognized for 15 minutes.

Mr. GREGG. Reserving the right to object, I believe there are other people who wish to address this issue. It would seem fair that we alternate from side to side.

There is nobody on our side now who wants to address it right now. How much longer does the Senator from California plan to talk?

Mrs. BOXER. I have completed my remarks at this time. I am happy to enter into a time agreement on this issue if the managers would like. It is not my intention to hold up this bill as a member of the Appropriations Committee, so if you want to put together a time agreement, it would be excellent.

I know my colleague has been trying to get the floor; we can continue to do questions and answers, because that is another way we could go, but I would prefer if he had an opportunity to speak, following my remarks.

Mr. GREGG. I have no objection.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I will get ready to yield the floor to my colleague from Illinois for 15 minutes of his remarks, but I want to take this opportunity to thank him and again to thank Senator KOHL, who I know will be coming to the floor at some point to talk about this.

I ask unanimous consent that Senator TORRICELLI be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. I simply say this: If ever there was a matter that was a commonsense matter, this is it. We are losing kids; 5,000 kids are dying. In my State, gunshot wounds are the No. 1 cause of death among children. So anything we can do to prevent that is worth doing.

My colleague has shown a typical safety lock. It is not expensive. Many companies have agreed to do this voluntarily. It seems to me we need to give a boost to those others to join. This law would not adversely impact those who are voluntarily moving forward with these locks.

I am interested to hear the argument against this because it will be hard for me to understand how we could look at this figure, say that we love our children, say that we should be protectors of our children, and still not stand up for our children. We can do it with this amendment. It isn't rocket science, it is a simple child safety lock. Just as we would keep out of the reach of our children anything dangerous, this is the only way to keep guns out of the reach of children.

I want to thank my colleagues for their patience. I am looking forward to an overwhelming vote on this.

I ask unanimous consent Senator MIKULSKI be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized for 15 minutes.

Mr. DURBIN. Mr. President, can I say something at the outset? There are people on the floor who oppose this amendment. I will be happy to yield during the course of my statement to debate it. I know they have strong feelings on the other side. I think we can add something to this issue if we have a real debate instead of just monologues on both sides. I invite any Senator on the floor who opposes the Boxer-Durbin-Kohl-Torricelli amendment to feel free at any moment to engage us in a question and debate. I think that would help the public in the galleries and those watching television to follow this debate and to understand the simplicity and the honesty of the amendment offered by the Senator from California.

Let me say that we should look at the scope of this challenge. We are a Nation of 265 million people. We are a Nation of 300 million guns—300 million guns. As we stand here today in the midst of this debate, approximately half of those guns at this moment in time are accessible to children. They are accessible in the drawer behind the socks, in the closet up on the shelf, down in the bottom of the closet behind the shoes—accessible to kids.

As the Senator from California will tell you—and I can attest to it having been a father and now a grandparent—children will always find Christmas gifts and guns. I don't care where you hide them, they are going to find them. When they find a loaded gun, tragic occurrences happen. In fact, in this Nation that we live in, 14 times a day we lose a child to a gun—14 times a day.

What the Senator from California is suggesting is something that is so simple and practical that I think this Senate should go on the record with a vote in support of our amendment. This little trigger lock can save a life. It can save the life of that baby who you love so dearly—the grandchild who means so much to you.

I am going to make a little confession here. I have a conflict of interest in this case, as does the Senator from California. She is the proud grandmother of 3-year-old Zack. I am the proud grandfather of 2-year-old Alex. I am reminded every time we get in this debate of how much of a heartbreak it must have been for the parents and grandparents of those children who came home to find they had lost this baby they loved so much because of a tragic accident. Could it have been avoided? Yes. For the lack of a trigger lock like this one, lives were lost.

Let me tell you something else that troubles me about this debate. The National Rifle Association, to no one's surprise, opposes this. The gun lobby opposes this. Yet, I have spoken to gun owners about this issue, and I get an interesting response from them. How concerned are they about children who are being injured with guns? They are very concerned. They are also troubled that these gun lobby spokesmen stand up in Washington and say, "This is none of your business, you should not be passing laws to do this," because the gun owners I speak to say, to a person, "We never want a single firearm that we own to ever harm anybody in our household or any innocent victim, regardless of their age." These are responsible gun owners who understand their responsibility under the law when they exercise their right to use guns safely and legally.

What the Senator from California is trying to do——

Mr. GREGG. Will the Senator yield?

Mr. DURBIN. Yes.

Mr. GREGG. Mr. President, I bring to the Senator's attention that it is inappropriate under the Rules Committee's rules to bring an item for demonstration to the floor. So I say that if this debate is going to continue, we will not proceed with the demonstration.

Mr. DURBIN. The Senator objects to my showing a trigger lock on the floor?

Mr. GREGG. That is correct. The Senate rules object to your showing that on the floor.

Mr. DURBIN. I am relatively new here, and I am happy to be advised. I will try not to violate the rules.

I ask unanimous consent to display a trigger lock during the course of this debate.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. I object.

Mr. DURBIN. All right. I think you saw what I showed you, in violation of the rules, a few minutes ago. I think you understand that this tiny object, which could fit in my hand, which I can't pick up under the rules of the Senate and under objection on the floor, is something that is not a major investment by any gun owner, but could bring peace of mind not only to the gun owner, but to other people.

When I held a press conference in Chicago, IL, and invited a friend of mine who had been, unfortunately, a statistic in this debate, he told a story that chilled me about his 10-year-old son. He said, "My wife and I never had a gun in our house because we were afraid that with children around something might happen. We thought we were a safe family. Our son went next door to play with another child. . ." and I guess you can come to a conclusion as to what happened. His child was killed when the neighbor boy picked up a gun, playing with it, shot his son and killed him.

Suzanne Wilson, who testified 2 weeks ago, a mother from Jonesboro, AR, who would have faded into the background of all of the American people who do their duty and raise their families, now has become a national spokesperson. She will not let the death of her daughter in Jonesboro, AR, be forgotten. She is supporting this legislation by Senator BOXER, as well as many other efforts to reduce the likelihood that guns will be fired accidentally or will harm some young person.

I will tell you what. I cannot believe the opponents of this legislation could stand and look this woman in the eye—a woman who sent her daughter to grade school, who loved her with all her heart, kissed her good-bye in the morning, and never saw her alive again. I don't know if we will avoid the tragedy in Springfield, OR, or Pearl, MS, or Jonesboro, AR, or somebody else's hometown, tomorrow if we pass this law, but I know it is the right step forward.

I know this Senate is capable of coming to the conclusion that we can pass laws that will save lives. I know that we are willing to say to certain special interest groups, "No, you have gone too far." We have to use a trigger lock—which I can't show you—to protect our kids. I think that is something that is just basic. How many people in America now buy these clubs that they put on their steering wheels to protect their cars? This is a club to be put on a gun that is easily accessible. I can't show it to you, but you can turn the key and pull it off. Under the rules of the Senate, I can't show you that anymore.

I think you understand what I am saying. This is not a major investment, nor a complicated issue for people who dearly love these children and understand what is at stake. Believe me, this debate is about you, not about States rights, not about the Bill of Rights. This debate is about our children and their lives. That is what is at stake here. This U.S. Senate can come together in a bipartisan fashion and do the right thing for families across America. We will all join in lamenting any gun violence. We will give speeches on the floor, and at home we will send letters of regret and condolences, as we should. But when it comes to the bottom line, how are we going to vote? Representing the people of Illinois, I will vote in favor of this Boxer amendment. I think she is right that we need a new day in this country, which says that we are not going to take guns away but we are going to take guns seriously, and guns not taken seriously become, unfortunately, the objects of crime and the objects of accidents, which break hearts and destroy families forever.

This is not too much to ask. What the Senator from California has proposed should be supported. I have been waiting for those who oppose the amendment to engage me in debate. I hope they will. I am still waiting. Even without my trigger lock, I am waiting. I would be happy to engage any of them in a debate on this issue. I see they are not ready to do so.

I yield the remainder of my time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we have before us this afternoon an amendment offered by the Senator from California that is one of those feel-good amendments. Obviously, the Senator from Illinois has taken the feel-good debate to its ultimate. All of us are dramatically concerned and frustrated when anyone dies in this country accidentally. There is no question that there is always a quick rush to mind saying that there ought to be a law against that—especially if it appears to be an accidental death that occurred because somebody was negligent. Even more reason to want to do something to disallow that kind of an accident from happening.

Now, I do not apologize for the fact that I am an active member of the National Rifle Association, and I believe in trigger locks. I agree with the Senator from Illinois and the Senator from California that trigger locks ought to be employed in the storage of a gun for safekeeping reasons, but I do not believe trigger locks ought to be used on loaded guns.

The gun that killed the child that the Senator from California so dramatically spoke of was a loaded gun, and therein lies the difference. No FBI agent, no Federal agent of law enforcement in our country or State or local law enforcement agent with proper firearm training ever puts a trigger lock on a loaded gun. Why? Because the manufacturer says don't do it. And why does the manufacturer say don't do it? Because trigger locks are not a guarantee of safety—a jostling of the trigger lock, a dropping of the gun, a jamming of the trigger lock object that surrounds the encasing for the trigger could cause it to fire.

That is the reality. I know. I am a pistol shooter. I know about which I speak. But I am for trigger locks. I am for gun safes. I am for drawers with locks on them because I want firearms safely stored in this country so that the citizens who use firearms legally under the second amendment can be guaranteed that that right will never be abridged.

What the Senator from Illinois talks about this afternoon is, in fact, tragic, and, of course, the Judiciary Committee spoke to this issue and said that everyone ought to be made aware of them. Certainly everyone who purchases a gun ought to have a full understanding and knowledge of the use of trigger locks for safekeeping. Should it be a Federal mandate? I don't think so.

Most importantly, it should not offer a sense of false security. That is what is important. And yet I will tell you that the Senator from California speaks of panaceas: But for the trigger lock no child will die. The Senator from Illinois: But for a trigger lock the world will be safer. No, it won't be if the gun is loaded. Now, if the person who owns the firearm is responsible, if the person who owns the firearm does not plan to use it for personal protection and needs it immediately for their access or personal protection, that gun ought to be unloaded. The ammunition ought to be stored separately from the firearm. That is the rule of the game. That is what you are supposed to do as a law-abiding citizen. That is how you properly handle a firearm.

Well, let's talk about tragedies in this country. There is no question that when a small child finds a firearm which a parent has left loaded, and that small child plays with it and either kills him or herself or kills a brother or sister, oh, my goodness, what a phenomenal tragedy. I mourn; we all mourn. Parents who have acted so irresponsibly as to cause their child to die under those circumstances are the responsible parties. The gun should

have been unloaded. The gun should have been properly stored. If it were unloaded, it should have a trigger lock on it. But it does not happen that way all the time. Cars are never intended to kill people, but they kill people every day. Teenagers should drive safely, but they don't. They are very irresponsible at that age. Dramatic accidents happen such as just happened on the East-West Highway locally and teenagers are killed by a very safe car. They acted irresponsibly. They should not have done what they did.

While the number of privately owned firearms in this country has quadrupled since 1930, the annual number of accidental fatalities—and that is what the Senator from Illinois is talking about, accidents—not intentional shootings, accidents—the number of accidents involving fatalities with firearms has declined 56 percent nationwide, against a phenomenal increase in the number of firearms owned by citizens, law-abiding citizens. We don't count the criminals.

Firearms are involved in 1.5 percent of accidental fatalities nationwide, and they are oftentimes the most dramatic or they are oftentimes the most dramatized on the front page of a local, State or national newspaper. And I know why. Because the Senators from Illinois and California speak with the same emotion I do, especially when it is a small child who is involved in that kind of a situation. But let me tell you what is going to kill small children this summer on a 5-to-1, 6-to-1, 10-to-1 basis. It is not going to be a gun. It is not going to be a gun. It is going to be the very thing that the Senator from Illinois has in his drinking glass right now. It is going to be water. More children are going to drown this summer in neighborhood pools and backyard swimming pools—by the hundreds—than will die by a gunshot. And yet the Senator from Illinois is not proposing to outlaw or put locks on swimming pools.

Now, all of those deaths are just as accidental. But, you know, one size fits all and if we have a Federal law, it is going to take care of everybody, and everybody will be safe and the world will be better, and politics will be more clear.

It does not work that way. It should not work that way. We are supposed to be a land without Federal mandates, and yet this year more children are going to die by drowning. Remember, accidental fatalities this year: 4.8 percent by drowning, 1.5 percent by a firearm. But if you really want to get big numbers, more children are going to die this year by falling, probably out of the high chair under the supervision of a careful mother who accidentally turns away or inadvertently turns away or momentarily turns away from her infant child, or maybe the father, and that number is going to be about 13.5 percent, but that does include older people, too. In other words, the reality with which we speak this afternoon is not all black and white, not at all. Death by falling, 13.5 percent; vehicles, cars, 47 percent; poisoning, 11 percent.

When somebody dies by poisoning or by accidental poisoning, it isn't as dramatic because the national media isn't as intent on getting rid of our second amendment rights, so they don't publicize that as much. And they really don't have anything against backyard swimming pools so that only usually is covered by the local or the State media simply because of the tragedy of the loss.

Well, those are the realities with which we speak on this issue. Proper storage of firearms is the responsibility of every gun owner, and also education, safety, training and careful consideration.

All factors that relate to an individual's particular needs are key to this responsibility. That is really the issue here. And I know the Senator from Illinois and I would wish that everybody was appropriately educated on gun ownership, had been through the right schooling or the right training, would always unload their firearm and store it a long way away from its ammunition.

That is not what happens. People oftentimes become not careless, but they just assume. We have seen teenagers breaking into homes. That is stealing. That is theft. And yet we pass laws on that. We have laws against teenagers breaking into homes and stealing things, including guns, and yet they still do it. That is why it is important that we talk about this issue this afternoon. Oh, it is politically very popular. It is the right thing to do in an election year, but it may be the wrong thing to do when it comes to safety and security if it isn't appropriately handled. I recommend trigger locks. If I owned a pistol—and I don't—I would have a trigger lock on it. And it would be empty with a trigger lock on it. But that is the reality of the kind of issues that we debate here.

A general firearm safety rule that must be applied to all conditions is that a firearm should be stored so that it is not accessible to untrained or unauthorized people.

That is the right rule. That is the one that really fits. That is the one that really works well. And then you don't have the accidents to talk about.

Antigun groups overstate the number of firearm-related deaths among children by defining "children" to include anyone through the age of 19. The statistics that have been talked about here on the floor include teenagers acting violently. The reason is, 84 percent of firearm-related deaths—that includes homicide, suicides, and accidents among persons zero to 19 years of age—are accounted for by adolescents and young adults from 15 to 19; 84 percent, 15 to 19 years of age.

No; the examples cited by the Senator from California, while very dramatic and very emotional, are clearly the exception, the horrible exception, and not the rule. So, when we talk statistics this afternoon, and we talk about children, we are talking about zero to 19, by those statistics. At least that is what I am told.

The anti-firearm Children's Defense Fund and other gun control advocates have applied, if you will, the trick to all of the national statistics and data relating to that 1 child for every 90-odd minutes, 10 children out of 5,000—all of those figures. The reality is zero to 19, if anyone listening is interested in those kinds of statistics.

So a few moments ago I was giving you figures about these dramatic deaths that occur when a firearm is misused. The annual number of firearm accidents among children in 1995 fell to an all-time low in 1995—181 children. That is below the age of 15. We are pleased about that number, although terribly saddened, because I think some of the educational programs that some independent groups are using out there right now are helping educate young people to stay away from firearms if they don't understand them and if they have not been properly trained to use them.

Other types of accidental fatalities among children—children of the same category—where there were 181 killed by firearms, there were 3,095 killed in auto accidents. The Senator who is presiding at this moment has worked to dramatically lessen the impact of airbags when they are deployed because mishandled, and the child in an improper seat can be killed by an airbag in a car. I am not sure this Congress has responded to that in a timely and appropriate fashion, although Senator KEMPTHORNE has worked over time to make that happen. It just so happens, it is a 30-to-1 relationship of children who will be killed in auto accidents every year compared to those young people who might be killed by the mishandling of a gun.

I mentioned the local swimming pool. It is a hot day out there. We are fortunate being in an air-conditioned building. Tragically enough, there will probably be more children drowned today across this country accidentally than will be killed by a firearm. The statistics bear it out—1,024 in 1995 killed by drowning.

Fires, suffocation, falling—I have talked percentagewise. Let's talk statistics. Fires: 833 children burned to death in 1995; suffocation, ingestion of an object—we have all—not all of us, many of us—have raised small children. We know how frightened we are about a child's choking on an object, getting something in that mouth, picking up something and swallowing it.

Mr. President, 213 will die, on an average basis, annually because of that. We haven't outlawed small objects, I guess because we cannot, although some here might want to try. But that is the reality of what we deal with.

And the statistics go on and on. There were 44,583 deaths amongst children in 1995; .04 percent firearms. All the rest were the kinds of things that we can do very little about. We should try where we can. We can change the deployment impact of airbags. We probably cannot outlaw backyard swimming pools. We probably cannot mandate better caretakership at the community swimming pool. And somehow, we just can't teach moms and dads about child safety seats and not putting young children in the front seats of their cars. And that still goes on.

So, those are some of the facts and statistics that we will talk about today, probably more than once, as we deal with this issue.

I do not in any way try to misrepresent the intent of the Senators who have offered the amendment. But I will speak to reality based on knowledge. Manufacturers and anyone else knowledgeable in the use of a firearm will say not a trigger lock on a loaded gun—no, no, not at all—because you risk even a greater chance of accidental death. Trigger locks are recommended and should be used on unloaded guns. But that is the reality. So if we mandate it by Federal law, we risk even greater numbers of accidents. You even risk a great number of people violating laws because of the inability to accommodate or live up to this. That is the issue we deal with. That is the issue we will debate for a substantial period of time today.

It is very important that we understand it, because, try as we may as a Congress with good intent, as a Senate and Senators who care a great deal, we cannot legislate out of this life of ours accidental death or we wouldn't have any of the 44,000 children who will die this year die, be it by gun or by car or by drowning or by falling or by choking.

Let me close by saying I forgot to talk about the bicycle and the tricycle and the accidents that occur when children use those in an unsupervised way. We read about that on a regular basis, tragically enough. But I don't think the Senate is going to try to outlaw the tricycle or bicycle today—only the gun—or at least legislate it being mandated as to its management, its handling. That is the issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I come to the floor to support this amendment which would require the sale of a child safety lock with every handgun. This amendment is based on the Child Safety Lock Act which we produced last year with bipartisan support from Senators CHAFEE, DURBIN, and BOXER.

It is a commonsense measure, obviously, and it is not an extreme measure. It is a measure that will reduce gun-related accidents, suicides, and homicides by young people. It will make children safer and it will make mothers and fathers feel more secure in dropping off their children at their neighbors' homes after school.

In brief, all it will do is bring all the industry up to the level of most manufacturers who have already agreed to include safety locks with their guns. Our amendment is simple, effective, and it is straightforward. It requires that whenever a handgun is sold, a child safety device—or a trigger lock—also be sold.

These devices vary in form, but the most common resemble a padlock that wraps around the gun trigger and immobilizes it.

While we want people to use safety locks, we do not require it. In that sense, we treat safety locks like States used to treat seatbelts: You have to buy them, but you don't have to use them.

This amendment is sorely needed. Mr. President, 2,000 young people are killed each year in firearms accidents and suicides. This is not only wrong, it is unacceptable.

While our proposal is not a panacea, it will prevent many of these tragedies. Just today, in the Washington Post there is a story about a Prince George's boy of 4 who shot himself while playing with a handgun that was left laying around by his grandfather. Had that handgun been secured by a child-safety-lock device, this needless tragedy just yesterday would not have occurred.

Safety locks will also reduce violent crime. Juveniles commit more than 7,000 crimes each year with guns taken from their own homes. That doesn't include incidents like the school shooting in Jonesboro, AR, where the guns were taken from the home of one student's grandfather, again, because most of "dad's guns were locked up."

If parents and relatives would use safety locks on these guns, then at least some of these incidents will be prevented. To be sure not all, but some. The fact is that a child with a handgun is an accident or a crime just waiting to happen. Of course, we should commend the gun manufacturers who already have voluntarily agreed to comply with this proposal. But we still need this legislation because too many manufacturers still resist common sense.

The voluntary agreement covers about 77 percent of all new handguns manufactured in the U.S. each year, which is an impressive number. But it still leaves at least 350,000 handguns for sale each year without safety locks. This proposal brings hundreds of thousands more handguns up to the industry standard.

Mr. President, this amendment deserves our support. I thank you, and I yield my time back.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President. I thank the Senator from Wisconsin who, in the Judiciary Committee, has shown exceptional leadership on this issue, along with the Senator from California.

I defer to my friend from Idaho who spoke earlier about the member of the National Rifle Association executive board. I am certain his knowledge of firearms and handguns surpasses mine. But I will say that his statement, "No one should use a trigger lock on a loaded gun" apparently depends on the type of lock involved.

I have in my hand from the Safety Lock Company an advertisement that says:

> Lock for life. Hopefully, the garden hose is your kid's most powerful weapon. You no longer have to choose between your home security and your children's safety. Safety Lock is the only child safety lock for guns that can be locked safely while the gun is loaded, permanently installed on a handgun, unlocked in a few seconds, even in total darkness.

It appears it depends on the type of trigger lock or safety lock we are discussing as to whether or not the gun should be loaded.

I would like to address what I think is the more central argument made against this amendment by the Senator from Idaho. I am not surprised by the argument, because we hear it all the time. In legislative circles, it is known as the argument that the best is always the enemy of the good. Someone will come in and say, "Yes, you may save, oh, 5,000 kids' lives a year, but there are 44,000 other lives out there that you ought to try to save, too." I am not going to argue with the Senator from Idaho. I think we should take every reasonable step we can to protect all children in all circumstances.

In this particular case, though, the Senator from California and the Senator from Wisconsin come forward with a practical answer to a problem which haunts families across America with the proliferation of guns in our Nation. They have suggested trigger locks be sold with handguns. It is not an outrageous and radical idea. Law enforcement in America, including the Federal Bureau of Investigation, already uses these trigger locks, and they work.

For the Senator from Idaho to say, well, kids drown in swimming pools, that is a sad reality, too, but we are not about to close down swimming pools. We talk about children being trained, but we also talk about lifeguards and parents' responsibility.

I say to my colleagues, this is about a parent's responsibility, too. No parent is going to take a 2-year-old toddler who has never been in the water and toss him in the swimming pool and walk away. They would never consider it.

Would that parent leave a loaded gun where a 2 or 3-year-old can grab it? Sadly, that is happening time and time again. What we are saying is put a device on that gun that lessens the likelihood that a child is going to be injured.

The National Rifle Association's opposition to this seems to be that it means there is too much Government—too much Government—to ask that we put a safety trigger lock, a child-safety device with each handgun. In States across the United States now, we are adopting laws to mandate children's car seats to protect kids riding in a car. We don't consider that too much Government. We consider that common sense. It is common sense when we are talking about seatbelts, children's car seats, children's seats in airplanes. It is common sense—protect the children. They are too young and immature to protect themselves. A trigger lock does that, too. It is not a matter of too much Government.

The other argument from the National Rifle Association and others is this is too much to ask. You are asking a gun owner to spend another $3, $5 or even $10 to make their gun safe at home?

I don't think that is too much to ask. I really don't. I think this is a reasonable suggestion. I think what you will find is as it becomes commonplace across America, the cost will go down and quality will go up on these trigger locks. That is something that is a reality of life. It is something that is not too much to ask.

The seatbelt analogy, I think, is a good one. The Senator from Idaho made reference to it earlier. What we are talking about here is not putting every gun owner in jail who doesn't have a trigger lock. We are talking about creating an environment of thinking in America.

Let me confess here that when I grew up, the first car I owned didn't have seatbelts in it. I guess you know how old I am. Then for a number of years, I bought cars with seatbelts and promptly sat on them every time I got in the car. Then somebody in my State said, "Let's pass a law and say you have to buckle your seatbelt." I never got arrested for that, and I started using seatbelts. I don't feel all that comfortable without it.

What we are trying to do is say to gun owners across America, "Please join us. This is not taking your guns away. It is trying to create an environment of safety around children." What the Senator from California and the Senator from Wisconsin are suggesting is taking guns seriously. I will offer an amendment later along the same lines, but much like seatbelts, we want people to think twice about those guns.

The Senator from Idaho criticized the bill and said, "Oh, there are so many teenagers who are misusing guns." He is right. There are so many things we need to do about it, and he and I will join in increasing criminal penalties and so many other things that can be done.

In most instances, we are talking about immature children, children who pick up a gun and don't have a clue as to the danger of this weapon, turn it on a playmate, turn it on a sister or brother and tragedy follows.

I think the American people don't believe this is an unreasonable intrusion in their lives. They think it is common sense.

I salute both Senators from California and Wisconsin for their leadership on this. I am happy to stand as a cosponsor of this amendment, and I hope Members of the Senate, gun owners and those who are not gun owners—Democrats and Republicans—will step back for a minute and say this just makes sense. Let us at least save some of these children's lives. Let us put safety into the equation. Let us understand that an industry that has basically fought off every effort to put safety standards on the guns they manufacture should at least not stand in the way of trigger locks to save lives.

I yield back the remainder of my time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senators KOHL and DURBIN for their eloquent remarks and, again, say to my colleagues, it is Senator KOHL's bill that we essentially have here with very few changes. It almost passed the Judiciary Committee. It was defeated by a very narrow margin.

We are going to get a vote up or down on this amendment. I am very pleased about that.

Every single one of us on both sides of this issue absolutely love children. It is just very hard for me to understand that we cannot come together on this commonsense approach.

This amendment does no violence to the right to own a gun, to the right to buy a gun, to the right to use a gun lawfully. It merely says that we are going to make sure that parents, when they buy a gun, have with it a safety lock that is easy to put. And I have to tell my friends and colleagues here, I know if you could meet with just one of the parents of these children who were killed accidentally, you support this amendment.

Of the 5,285 children killed every year by gunfire, more than 440 are completely accidental deaths. And let us think about 400 kids dying accidentally every year and what that means—kids who would have grown up and had families of their own and given joy to their parents and grown to be grandparents. This is a small thing to do. I am always amazed, I say to my friends, that we cannot come together and reach across the party lines on these issues.

I want to put into the RECORD a letter that I received today from the International Brotherhood of Police Officers, or IBPO. And this is what they write. This is important because these are the law enforcement officers:

On behalf of the entire membership of the IBPO, I want to thank you for the amendment that will require that all licensed manufacturers, importers or dealers must include a separate child safety lock or locking device with each handgun purchased. The IBPO strongly endorses your legislation and looks forward to working with you on this important matter.

The IBPO represents street cops.

So these are cops who are on the beat and on the street.

Police officers, the letter goes on are out in the community every day.

By far, the most difficult part of their job is to arrive at home where a gun is left out, unsecured and tragedy has occurred. This legislation simply put will save lives. Each day in America, 16 children, age 19 and under are killed with firearms. Many of these deaths could have been avoided with a simple trigger lock attached to the gun.

My colleagues have shown those trigger locks here. They are very inexpensive. They are very easy to use. And, yes, there is one company that makes them so you could place it on a loaded handgun. So the argument you would have to leave your gun unloaded is simply not correct. However, it should be noted that all law enforcement agencies recommend storing firearms locked, unloaded, and out of the reach of children.

The letter from Kenneth Lyons, the National President of the IBPO, goes on to say: The Centers for Disease Control estimates that nearly 1.2 million unsupervised children have access to loaded and unlocked firearms in the home.

Let me repeat what he writes to us: "1.2 million unsupervised children have access to loaded and unlocked firearms in the home."

It is because of these numbers that this legislation is needed.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS,
Alexandria, VA, July 21, 1998.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: The International Brotherhood of Police Officers (IBPO) is an affiliate of the Service Employees International Union, the third largest union in the AFL–CIO. The IBPO is the largest police union in the AFL–CIO representing over 50,000 police officers nationwide.

On behalf of the entire membership of the IBPO, I want to thank you for amendment that will require that all licensed manufacturer, importer or dealer must include a separate child safety or locking device with each handgun purchase. The IBPO strongly endorses your legislation and looks forward to working with you on this important matter.

The IBPO represents street cops. Police officers who are out in the community every day. By far, the most difficult part of their job is to arrive at home where a gun is left out, unsecured and tragedy has occurred. This legislation simply put will save lives. Each day in America, 16 children, age 19 and under are killed with firearms. Many of these deaths could have been avoided with a simple trigger lock attached to the gun.

I must note for those opponents of child safety locks that the Center for Disease Control estimate that nearly 1.2 million unsupervised children have access to loaded and unlocked firearms in the home. It is because of these numbers that this legislation is needed.

Sincerely,

KENNETH T. LYONS,
National President.

Mrs. BOXER. Another letter comes to us from a heroine of mine, Sarah Brady, whose husband Jim, as you remember, was gunned down when he was the press secretary to President Reagan. She is the head of Handgun Control and writes us a letter today.

DEAR SENATOR BOXER: I am writing to commend you for all your efforts to ensure that every handgun sold in the United States be sold with a child safety lock or other safety device designed to prevent unauthorized use. Jim and I urge all Senators to support this amendment to the Commerce, State, Justice Appropriations.

And she reiterates the facts that we have gone over today.

Every day in America, 14 children, age 19 and under, are killed with firearms. Many of those deaths—accidents, suicides, and homicides—are preventable. One of the best ways of preventing these tragedies is to keep children from gaining access to a gun in the home. Public opinion surveys reveal that almost half of all households own firearms. Regrettably, a substantial number of gun owners improperly store their weapons, leaving them loaded, unlocked or both. A National Institute of Justice survey showed that 55% of all handgun owners keep their handguns loaded, and 34% keep a handgun that is loaded and unlocked.

As Senator KOHL has said—this is recipe for disaster. Unfortunately, we know this isn't a disaster just waiting to happen at some time in the future. If you look at this collage of headlines, this is a disaster that is happening in every city in every town in every suburb. There isn't a day that goes by that I do not get something in a clip from California. And these are from around the country. So this is a disaster that is happening now. Sarah Brady quite understands this. She goes on to write:

. . . the rate of firearm deaths among children 0 to 14 years of age is nearly twelve times higher in the U.S. than in 25 other industrialized countries combined.

So let us look at the other chart one more time, because you can see these numbers: Zero children killed in Japan; 19 in Great Britain; 57 in Germany; 109 in France; 153 in Canada; and 5,285 children killed by handguns in a year in the United States.

We can sit back and say, "So what." We could sit back and say, "Oh, we just have to give another piece of paper that talks about it." Or we can vote for this important amendment and make sure that when the parents buy the gun, it includes a child safety lock.

Now, I think it is important to laud some of the gun companies that have decided to volunteer to put these locks on guns and sell them with those locks without a law. I think it is wonderful that they have done it. They came to the White House and they reached an agreement with the President, and we are going to see more handguns sold with these locks.

However, the problem we have is that about 25 percent of handguns will not have these locks because the companies, including several in my state, have not agreed to this voluntary agreement. This means that about 350,000 guns every year will not be covered—350,000 guns—will not be covered by the voluntary agreement. So we are saying, good for the companies that volunteered to do this. Now let us make sure that everybody does it.

I ask unanimous consent that Sarah Brady's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HANDGUN CONTROL, INC.,
Washington, DC, July 21, 1998.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: I am writing to commend you for all your efforts to ensure that every handgun sold in the United States be sold with a child safety lock or other safety device designed to prevent unauthorized use. Jim and I urge all Senators to support the Boxer Amendment to. S.2260, the Fiscal Year 1999 Commerce, State, Justice Appropriations.

Every day in America, 14 children, age 19 and under, are killed with firearms. Many of those deaths—accidents, suicides, and homicides—are preventable. One of the best ways of preventing them is to keep children from gaining access to a gun in the home. Public opinion surveys reveal that almost half of all households own firearms and that, regrettably, a substantial number of gun owners improperly store their weapons, leaving them loaded, unlocked or both. A May 1997 study sponsored by the National Institute of Justice showed that 55% of all handgun owners keep their handguns loaded, and 34% keep a handgun that is loaded and unlocked.

The Centers for Disease Control and Prevention (CDC) estimate that nearly 1.2 million latch key children have access to loaded and unlocked firearms. It is no surprise, therefore, that children and teenagers cause over 10,000 unintentional shootings each year in which at least 800 people die.

According to a February 1997 CDC study, the rate of firearm deaths among children 0 to 14 years of age is nearly twelve times higher in the U.S. than in 25 other industrialized countries combined. Mandating the sale of trigger locks or other safety devices with each handgun purchase is an important first step toward preventing these senseless tragedies.

Yes, great progress has been made. As you know, in October, President Clinton reached agreement with most, but not all, handgun manufacturers that they would voluntarily include a child safety lock with the weapon that they manufacture and sell. Your legislation will ensure that all handguns sold in the United States include this important safety device.

Again, thank you for your efforts to ensure that our children are safe from unintentional gun violence.

Sincerely,

SARAH BRADY,
Chair.

Mrs. BOXER. Mr. President, what we have here is a very straightforward amendment. It simply says, when a handgun is sold, include a lock. If a customer prefers a lockbox, that is acceptable to us, that is fine. And it is endorsed by the police, one of the largest organizations of cops on the beat, Handgun Control, and Sarah Brady. This is something that we can do.

We don't want to wake up in the morning and see these headlines anymore, we don't: "6-year-old Boy Shot at Friend's House." That is in Allentown, Pennsylvania. In New Orleans: "Boy, 6, Shot by his Brother." "Boy Accidentally Shot by Cousin." "17-month-old Shot Accidentally by Boy." "9-year-old Oasis Boy Accidentally Shot." That is in California. "Boy Paralyzed in a Gun Accident."

There is something I want to point out. When we look at the statistics, we don't show the wounded, we show only the fatalities. For every death, up to eight victims are wounded and often live their lives nursing chronic injuries. So what we do here just doesn't deal with preventing deaths, but also with preventing debilitating injuries.

I think I have stated the case as best as I can. I don't know if my colleague from New Hampshire is going to take to the floor, but I do know that Senator BIDEN will be here at 4 o'clock, I say to the chairman. He would like to have an opportunity to speak. If Chairman GREGG would like to enter into unanimous consent that we can set this aside until Senator BIDEN comes, I am happy to do that. That would be, I think, a good way.

Mr. GREGG. That is up to other Members who wish to take the floor. I have no objection.

Mrs. BOXER. There are no other colleagues here.

I ask unanimous consent that Senator SMITH be recognized for 20 minutes, and at that time Senator BIDEN immediately follow.

Mr. GREGG. Reserving the right to object, I just noticed the Senator from Idaho. Did the Senator desire further time? There is a unanimous consent request by the Senator from California. The essence of the request was that

this amendment be set aside, that Senator SMITH from New Hampshire go forward for 20 minutes, then Senator BIDEN would be next, and we would be back on your amendment, with Senator BIDEN speaking at the conclusion.

Mrs. BOXER. And if Senator CRAIG wants to come in at that point, that is fine, and Senator KOHL has some time.

Mr. CRAIG. I have no objection.

Mrs. BOXER. If I could amend the request, Senator KOHL wanted 2 minutes, and then Senator SMITH for 20 minutes, and then Senator BIDEN, and then go back on the bill.

Mr. SMITH of New Hampshire. Reserving the right to object, just to clarify. I have remarks that would not be more than 15 or 20 minutes. The only thing is, I don't know if there are others who may wish to speak for or against the amendment. I didn't want to preclude that opportunity. I certainly have no objection to going back to your amendment. That is perfectly appropriate, and I appreciate your offer—if we could somehow get the timeframe to make my remarks but not to preclude other people coming back to speak for or against my amendment.

Mrs. BOXER. Does the Senator have a different amendment he is about to offer? Is that what this is about?

Mr. SMITH of New Hampshire. I have a separate amendment.

Mrs. BOXER. I am trying to accommodate my friend because I thought he had a statement to make, a 20-minute statement to make.

Mr. SMITH of New Hampshire. No; I have an amendment.

Mrs. BOXER. Is it an amendment that would be accepted?

Mr. SMITH of New Hampshire. No.

Mrs. BOXER. I was trying to accommodate my colleague, but I think it is better to go with the flow of this amendment. I know Senator KOHL wants to speak, Senator DURBIN, Senator CRAIG, so I suggest we stay on this amendment.

I am trying to accommodate my colleague.

Mr. GREGG. The Senator has the floor. When the Senator yields the floor, it will be up to the Chair as to who gets recognized. At this time there doesn't seem to be a unanimous consent that is agreeable.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. I object.

Mr. SMITH of New Hampshire. Could I suggest a unanimous consent request. Let me make one and see if it is acceptable.

I make a unanimous consent request that I be allowed to offer my amendment to speak not more than 20 minutes, after which time we would go back to the amendment of the Senator from California.

Mrs. BOXER. I have no objection, but I would ask my friend if he could give just one minute to Senator KOHL, then set aside the BOXER amendment, go to the SMITH amendment, and then return for Senator BIDEN's discussion of the BOXER amendment.

Mr. SMITH of New Hampshire. But not to preclude additional time after your amendment is completed.

Mrs. BOXER. Absolutely not.

The PRESIDING OFFICER. Does the Senator from California withdraw the unanimous consent?

Mrs. BOXER. I will go along with Senator SMITH's unanimous consent request, as I modified, so Senator KOHL can speak for 1 minute.

The PRESIDING OFFICER. The Senator withdraws.

Mrs. BOXER. I withdraw.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from New Hampshire?

Without objection, it is so ordered.

The Senator from Wisconsin is recognized for 1 minute.

Mr. KOHL. Thank you, Mr. President.

Just a couple of brief points. Even though Senator CRAIG and those of us on the other side differ on this amendment, I have no doubt that Senator CRAIG is committed to ensuring gun safety. In fact, he was instrumental in passing our 1994 law, the Youth Handgun Safety Act that prohibits kids from having handguns.

Second, we have really come a long way in the last few years. Today everybody, from the NRA to the gun manufacturers to police advocates, is advocating for handgun control because all believe that trigger locks, child safety locks, are helpful in preventing gun-related harm.

No matter what the outcome is on this vote, I am sure we will continue to work for a consensus. Someday, I believe we will reach one on the issue of kids and guns.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

AMENDMENT NO. 3233

Mr. SMITH of New Hampshire. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 3233.

Mr. SMITH of New Hampshire. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

"SEC. . None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) any system to implement 18 U.S.C. 922(t) that does not require and result in the immediate destruction of all information, in any form whatsoever, submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm; (2) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t); provided, that any person aggrieved by a violation of this provision may bring an action in the federal district court for the district in which the person resides; provided, further, that any person who is successful with respect to any such action shall receive damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee. The provisions of this section shall become effective one day after enactment."

Mr. SMITH of New Hampshire. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3234 TO AMENDMENT NO. 3233

Mr. SMITH of New Hampshire. Mr. President, I send a second-degree to my own amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 3234 to amendment No. 3233.

Mr. SMITH of New Hampshire. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, strike all after the word "SEC." and insert in lieu thereof the following:

"SEC. . None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) any system to implement 18 U.S.C. 922(t) that does not require and result in the immediate destruction of all information, in any form whatsoever, submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm; (2) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t); provided, that any person aggrieved by a violation of this provision may bring an action in the federal district court for the district in which the person resides; provided, further, that any person who is successful with respect to any such action shall receive damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee. The provisions of this section shall become effective upon enactment."

Mr. SMITH of New Hampshire. Mr. President, this amendment relates to the Federal Bureau of Investigation's new National Instant Criminal Background Check System, otherwise known as the NICS, which is scheduled to take effect on December 1 of this year.

The so-called Brady Act had two provisions. One of those provisions was an interim provision, and the other was a

permanent provision. In the interim provision is the waiting period for gun purchases that is now in effect but which will expire on November 29 of this year.

Now, the permanent provision, which takes effect on December 1, mandates—I emphasize the word "mandate"—mandates the establishment of a National Instant Criminal Background Check System, known as the NICS, which is to be operated by the Department of Justice.

The purpose of this National Instant Criminal Background Check is to prevent the purchase of guns by persons with criminal backgrounds who are prohibited otherwise from owning firearms. Under this new system, persons seeking to buy guns will be required to submit certain identifying information for clearance through this NICS.

Now, this raises serious concerns. I have concerns here that the FBI has stated that in cases where the NICS background check does not locate a disqualifying record, information about that individual, according to the language, will only be retained temporarily for audit purposes and will be destroyed after 18 months.

My question to my colleagues is this: Why hold on to this information for 18 months? These are innocent people who have no disqualifying record. They are entitled, under the second amendment, to own their firearms. I don't think any records ought to be kept for 18 minutes, let alone 18 months. There is simply no reason that the FBI needs to retain private information on law-abiding American citizens—in this case, gun owners—for any time at all, let alone for 18 months.

There are no legitimate audit purposes for retaining private information on law-abiding gun owners in the FBI. Now, we have seen abuses. We have seen files turning up from the FBI on individuals who happen to appear in the White House, and on and on and on. This is an opportunity to abuse the privacy rights of millions of American gun owners. It is simply wrong if you didn't do anything. If your record is clear and there is no disqualifying information, then there should be no record kept, period.

I have heard a lot from law-abiding gun owners in the country who view this FBI gun owners ID record retention scheme as an ominous step toward national gun registration, which I believe is probably the ultimate goal here. Justifiably, in my view, they see this plan as a threat to their second amendment right under the Constitution of the United States. I agree with them. I feel deeply about this. I emphasize again that FBI files have been abused, and to keep, for any period of time—especially as long as 18 months—files on people who have done nothing wrong, in the FBI, is wrong.

Stated simply, my legislation will put a stop to the FBI's plan to keep records of private identifying information on law-abiding citizens who buy guns. My amendment will require the immediate destruction of all information submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm.

Mr. President, my amendment has another purpose as well. The Department of Justice has proposed to charge fees—a gun tax, if you will—for the NICS, using the authority of a provision in the 1991 Commerce, Justice, State Appropriations Act.

As Appropriations Committee Chairman STEVENS noted when he introduced the No Gun Tax Act of 1998 earlier this year, the 1991 Appropriations Act was passed 2 years before the law establishing the National Instant Criminal Background Check System.

Moreover, as Chairman STEVENS properly observed, the 1991 act "was never intended to allow fees under the NICS program." "This limited 1991 authority," Senator STEVENS noted, "allowed fees only 'to process fingerprint identification records and name checks for noncriminal justice * * * and licensing purposes.'" "It was not intended," concluded Senator STEVENS, "to apply to programs like the NICS program, which checks the criminal background of purchasers and has nothing to do with licensing."

In introducing his No Gun Tax Act of 1998, which I was honored to cosponsor, Senator STEVENS also aptly observed that, "The imposition of a fee would encourage some to try to obtain firearms on the black market." "No matter how you feel about gun control," Senator STEVENS said, "we should all do what we can to make sure that the new background check system works."

My amendment would prevent the use of funds by the Department of Justice for the "implementation of any tax or fee" in connection with the implementation of this new National Instant Criminal Background Check System.

Under the second amendment, law-abiding American citizens have the right to own a firearm. And if the Congress, in its wisdom, decides that we are going to have this background check and a person is not disqualified, he or she should not have to pay for it. It is their constitutional right to have a weapon if they are honest, law-abiding citizens, and they should not have to pay a fee because somebody said they needed to check to find out if they were honest people or not. It is wrong. This is "big brother," Mr. President, and it is wrong.

So my amendment would create a civil cause of action, as well, on behalf of any person who is aggrieved by a violation of this act, which can be brought in the Federal district court for the district in which the person resides. So if your rights are violated, then you have a right to take this matter to court, as any citizen would. If successful, such a lawsuit would entitle the gun owner wronged by a violation of the provisions of my amendment to an award of damages and any other remedies deemed to be appropriate by the court, including attorney's fees.

We must not allow a trampling of the second amendment. We must not allow fees to be charged to people who have done nothing except own a firearm and be legal, law-abiding citizens. They should not have to pay a fee. I hope this amendment will have broad support. The sound operation of the new National Instant Criminal Background Check requires neither the retention of ID records on law-abiding gun purchasers nor the imposition of a user-fee gun tax.

So, in conclusion, let me just say, No. 1, my amendment says if the background check is conducted, no record is kept if you have done nothing wrong, you are a law-abiding person, and you are entitled to that gun. No record is kept, period. Secondly, no fee is charged. Thirdly, if records are kept in violation of this act, then you have a remedy in court.

That is the amendment, Mr. President. So I say to my colleagues, if you support the second amendment and the rights of law-abiding people not to be harassed, you will support my amendment. We have seen harassment by the IRS, and this will invite harassment by the FBI if we do not stop this process. How many files will be retained? What information will be used on these people in these files? When I think of the FBI and I think of a file held in the FBI on somebody, I think of someone perhaps doing something wrong or being accused of doing something wrong. These people have done nothing wrong, except own a gun. That is not wrong; that is legal under the Constitution of the United States.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. GORTON). Is there a sufficient second?

There is not a sufficient second.

Mr. GREGG. Mr. President, is the Senator asking for the yeas and nays on the second-degree amendment?

Mr. SMITH of New Hampshire. Yes.

Mr. GREGG. You are going to want yeas and nays on both?

Mr. SMITH of New Hampshire. The second-degree amendment will be the first one voted on. I would be happy to vitiate them on the second vote, but I need to have a vote on the second-degree amendment.

Again, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, we will go back to the Boxer amendment.

Mrs. BOXER. Mr. President, Senator BIDEN has sent word over that his time

can be taken by Senator KOHL and myself. Senator BIDEN was going to talk for 15 minutes. I ask that that time be divided between Senator KOHL and myself.

The PRESIDING OFFICER. There is no order to that effect.

Mrs. BOXER. I want to give some time to Senator KOHL. I have no need to talk on and on.

The PRESIDING OFFICER. Does the Senator from Wisconsin seek recognition?

Mr. KOHL. Yes, I do.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I oppose this amendment for two reasons. First, while I have a great deal of respect for Senator SMITH—I was in the room when we wrote the Brady Act—along with Senators Dole, Mitchell and Metzenbaum. Certainly no one in that room believed that you couldn't charge fees under Brady. If anything, we expected that fees would be charged for doing checks. Nothing in Brady's legislative history leads me to change my mind.

Fees for background checks are nothing new. In fact, when we negotiated Brady, all of us were aware that the FBI charged fees for other background checks. And no one was surprised that, once Brady became law, 39 States authorized fees for State-run Brady checks. No one is questioning these other fees.

Second, prohibiting fees—without otherwise providing the funding necessary to support the instant check system—would endanger the Brady Act. The instant check system, which was originally proposed by the NRA itself, is an essential part of Brady that is scheduled to replace the State-run system at the end of this year.

Of course, these instant checks will cost money. The FBI believes it will need about $75 million to pay for additional staff and resources. Unless the instant check system gets funded, these checks will not happen. No funding, no checks. And no checks means more criminals with guns and more violence.

Now, in my opinion, it doesn't matter whether the funding for instant checks comes from fees or from a separate appropriation, but we need funding from somewhere, and we should not make the FBI choose between cracking down on violent gangs and doing instant checks. But this amendment provides no alternative funding.

Mr. President, the real issue before us is this. We can pay for instant checks and build on the Brady Act's record of stopping nearly 150,000 criminals from buying guns, or we can leave Brady's future up in the air and risk putting more guns in the hands of dangerous felons. In my view, the choice is easy. I do not want to see the FBI make a "profit" on these fees, but we need to make sure that background checks continue saving lives by defeating this amendment.

I thank the Chair. I yield for the Senator from California.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I thank the Chair.

AMENDMENT NO. 3231

I assume we are getting close to a vote on this amendment. I want to make a point here. I do not believe that this child safety lock amendment is a panacea—the cure-all, which will stop all kids from dying. But it will help. And I believe we must do whatever we can to help.

I want to talk to you about a survey that was done by the Violence Policy Center called "Kids Shooting Kids." These are stories from across the Nation of unintentional shootings among children and youth. This is a 9-month period in 1996. You read a story and you think, "This is horrible," and you don't realize the extent to which this is affecting our families and hurting our children.

So what I would like to do is read a number of these cases with this point in mind, to show you how widespread this crisis truly is. It is not a panacea, but I believe it will save children's lives—maybe 100, maybe 200, a year.

As you hear these stories, what I want you to do is ask yourself a question, I say to my colleagues: If there was a lock on that gun, would this accident have happened? That is what I am asking you to do. Put the commonsense test to it.

"Two boys hurt when pistol fires." This one is in Mobile, AL.

Two boys looking under a mattress for loose change found a pistol instead. When the weapon discharged, Jacob Lewis, 7, lost a finger. His friend, Michael Moore, was hit in the face, the neck and the abdomen. Jacob's grandfather, Art Lewis, kept spare change under his mattress, along with a handgun. "They knew I kept some change there, but they had no business going back into that bedroom," Jacob's grandfather said.

Jacob was treated and released. Michael was still in the hospital listed in stable condition. Lewis said his son gave him the gun two weeks ago for protection because he was alone. He said, "I have never had a pistol." He kept the handgun loaded. He says, "I don't want a pistol. I don't want anything like this in my life."

That is what happened after the accident.

Valdez, AK. This is a picture of this little child, 8 years old. Front page story:

An 8-year-old Valdez boy died Saturday of a gun shot wound after he and his 10-year-old brother had been playing with a handgun in their Aleutian village home. Steven Lind Johanson was pronounced dead at Valdez Community Hospital of a single shot to the head.

They said the results would be known later. "All we know at this point is they were playing with guns." For whatever reason, the little boy got shot.

So here you have this cute little boy with a little space in between his teeth. He hadn't even gotten all of his teeth yet. He is dead:

Boy 15, shot in the face with a .357 in stable condition.

This is in Alaska. He was playing with a gun.

My understanding is he may lose some of his hearing. The boy thought the chamber was empty and happened to pull the trigger. The gun was stolen.

It goes on: A 14-year-old Amber Valley boy shot in the head and killed while he and his best friend were handling a handgun.

These are not kids in gangs. These are not kids who are vicious. These are ordinary children who are doing what ordinary children do, which is to be curious, which is to imitate what they see in the movies. Had there been a safety lock, these little children might be alive today.

These stories go on and on:

Glendale boy finds gun. Accidentally shot, .22 caliber revolver.

9-year-old Oasis boy accidentally shot. Victim in serious condition.

3-year-old finds gun, kills sister.

Unbelievable.

Boy paralyzed in gun accident.

That is in Atlanta, GA.

17-month-old shot accidentally by boy, 3.

Accidentally shot by a playmate.

Boy, 11, dies in a gun mishap.

It just goes on and on.

So we can say there is nothing we can do, and we could say let's pass a sense-of-the-Senate that parents should be shown all of this. That is fine. I don't have any problem with that. But we have to do something real, and that thing is to put locks on guns.

So I was hoping against hope that we could, Senator CRAIG and I, join hands on this one, that we could agree on this one, because I know we have certainly argued on other issues. I am quite surprised that we can't reach agreement on this. I think it is common sense. I think it is good law.

Mr. President, I hope we can have a vote on this. I hope we will succeed on this. It is not my hope to speak much longer, only to respond if there is something that is put out that I think is merits a response. But I ask unanimous consent that the rest of these stories be printed in the RECORD, not the entire group but a representative sample of stories that I have shared with my colleagues.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Macon Telegraph, Dec. 17, 1995]

17-MONTH-OLD SHOT ACCIDENTALLY BY BOY, 3

(By Joe Kovac, Jr.)

A 17-month-old girl who was accidentally shot in her arm was recovering in a Macon hospital Saturday night. The shooter, police said, was a 3-year-old playmate.

The victim, Yanita Grier, was shot one time with a .38-caliber revolver apparently left lying out in a bedroom, detectives said.

The child was in "stable" condition at The Medical Center of Central Georgia late Saturday.

The 3-year-old boy who'd been handling the gun told an investigator he'd picked it up and that it fired when he dropped it.

"My heart dropped when I went in and saw (what had happened)," said officer Cornelius Pendleton. "There shouldn't have been a gun there like that."

The 7 p.m. shooting happened in a two-bedroom apartment at 709–A Patton Ave., a block east of Henderson Stadium, where between 10 and 13 children were living with three adults, police said.

The wounded girl's mother, Denita Grier, 28, along with other adults there, told police she didn't know there was a gun in the apartment.

"They were shocked to hear the shot," said detective Capt. Henry Gibson.

He said the gun belonged to the boyfriend of one of the residents.

Initially, police were trying to figure out how the 3-year-old, whose name was not released, managed to squeeze the trigger.

Only when a detective was able to talk to the child did the shooting become more comprehensible.

"It was very disturbing, kind of nerve-racking, when you arrive on the scene and they tell you a 17-month-old has been shot with a .38," Gibson said. "When we asked who the suspect was, they said it was a 3-year-old child."

No charges are expected to be filed in the incident.

[From the Okawville (IL) Times, Mar. 6, 1996]

CHILD SHOT WHILE PLAYING WITH GUN

Zach Muncy, 12, was shot in the chest as he and friend Josh Mathews were playing with a small gun at the home of his grandmother, Voneda Impastato, Thursday evening.

The bullet hit Muncy's sternum. He was taken by ambulance to the Washington County Hospital, where he underwent emergency surgery to have the bullet removed. He was released the next day, and was able to return to school Tuesday.

The bullet struck only a half-inch from Muncy's heart, which would have proved fatal.

Mathews received only minor injuries on his chest from fragments of the ammunition that exploded. He was treated and released at the hospital the same evening.

According to the Okawville Police report, the youths were handling a small caliber pistol. They had apparently placed old (and perhaps ammunition not designed for the gun) in the chamber. A round was fired and exploded in the weapon itself.

Voneda Impastato said that the boys had found the gun. She was not at home when the accident occurred.

Zach Muncy moved in February from Taylorville to live with his grandmother at the Senior Apartments in Okawville. He had formerly lived in Okawville with his parents, Dennis Muncy and Jean Muncy Gaynor, who have since divorced and live in Taylorville.

Mathews lives with his father, Randy Mathews in Okawville.

No charges are pending in the incident.

[From the Chicago Daily Southtown, Apr. 27, 1996]

BOY, 11, DIES IN GUN MISHAP

(By Stephanie Gehring and Janis Parker)

A 15-year-old Auburn-Gresham neighborhood boy was charged with involuntary manslaughter Thursday after he accidentally shot and killed an 11-year-old friend while playing with a handgun.

Bryant Suttles, 7842 S. Winchester Ave., was shot once in the head with a 9mm semi-automatic handgun while the two boys were in Suttles' basement about 5:30 p.m. Thursday.

The 15-year-old, whom police would not identify, first told police he and his friend had found the gun in a drawer. The 11-year-old took it out, pointed it at his head and shot himself. But the 15-year-old later admitted he was the one handling the gun, Calumet Area violent crimes Sgt. Larry Augustine said.

[From the Atlanta (GA) Constitution, Feb. 16, 1996]

BOY PARALYZED IN GUN ACCIDENT—COUSIN, 9, MISTAKENLY THOUGHT HE REMOVED BULLETS, POLICE SAY

(By Bill Montgomery)

A 10-year-old College Park boy was paralyzed when shot accidentally by a 9-year-old cousin playing with a handgun he thought was unloaded, police said.

Somari Smith was paralyzed from the chest down in the shooting Wednesday at his home at Harbour Towne Apartments on Riverdale Road, Clayton County police said.

Somari was listed in critical but stable condition at Eggleston Children's Hospital on Thursday evening.

Clayton County police Lt. Doug Jewett would not identify the boy who fired the shot, pending further investigation. Jewett said the shooting apparently was an accident.

The 9-year-old thought he had unloaded the .25-caliber semiautomatic pistol by removing the magazine and did not realize a round remained in the chamber, Jewett said.

Somari's stepfather, Michael Williams, 32, had left the boys and a 2-year-old cousin alone at the apartment while he went to pick up his wife from her job in Atlanta, Jewett said.

The 9-year-old called 911 for help, police said, and met the officer who responded at the door. Officer B.E. Kelley found Somari lying in an upstairs bathroom. The officer saw blood on Somari's chest, arms and the rug beneath him, and the boy complained he had no feeling in his legs.

[From the Fort Myers, FL News-Press, Jan. 15, 1995]

3-YEAR-OLD FINDS GUN, KILLS SISTER—PARENTS COULD FACE CHARGES

(By Bob Norman)

Three-year-old Colton Hinke was sitting in the corner of his parent's dark bedroom Sunday night, silent and trembling, a .25-caliber pistol having just gone off in his hand.

His 2-year-old sister, Kaile Hinke, was on her back on the apartment's family room floor at Player's Club, staring upward, her lips blue, her face pale, a little hole in her upper right chest.

Kaile was in shock after being shot by Colton at about 7:15 p.m. Thirty minutes later she would be declared dead at Lee Memorial Hospital, surrounded by her grieving parents, who under state law could be charged in her death.

Colton had pulled the loaded gun out of a drawer in the bedroom, said Chris Robbins, a neighbor who heard the gunshot and discovered the little girl.

"The boy didn't even know what was going on," Robbins said, "The hardest thing is that they are both innocent victims."

Colton and Kaile were in their parents' bedroom playing while their mother, Sherri Hinke, 24, was in another room, according to police. The father, 27-year-old Michael Hinke, was at work at Domino's Pizza.

When Robbins heard the gunshot, he ran to the apartment and found the mother in hysterics, kneeling over her daughter, who still was breathing.

"Where has she been shot?" he asked her.

"I don't know," cried the mother.

"Lift up her shirt," he instructed.

When she did so, he saw the little hole in her chest. Robbins then ran into the bedroom to see Colton.

"I just picked him up and took him outside," Robbins said, "He was just scared, shaking. I rubbed his back and told him everything's going to be OK and that he had to be a good boy."

Michael Hinke rushed from his job to the apartment off Colonial and Evans avenues, and he and his wife were taken by police to the hospital.

"My daughter is dying," Sherri Hinke said, overcome with emotion.

Robbins, 33, a former Army Ranger who was visibly shaken by the tragedy, followed the family to the hospital.

"She was a beautiful little girl," a red-eyed Robbins said after leaving Kaile's bedside. "She had big . . . she had the biggest blue eyes. But I'm so worried about the little boy. I hope he gets help."

Colton was put in his grandmother's care after the shooting, Robbins said, adding that he apparently had realized what had happened.

"The family told me that he said, 'Nana, I shot my sister,' " he said.

Under a state law passed in June 1989, parents can be charged with a misdemeanor if they leave loaded firearms where children can get to them. If a child injures or kills someone with a gun, the parents could be charged with a felony punishable by five years in prison.

Fort Myers police hadn't filed any charges as of Sunday night.

"Until they get done with all the interviewing and find out all the facts of the case, there won't be any charges," Sgt. Kevin Anderson said.

Accidental gunfire deaths have been a leading cause of death of children aged 5–14 for years. It is rare, however, for children younger than 5 to die in accidental gunfire, according to state statistics.

Neightors, many of whom heard the gunshot, were shocked when they heard what had happened.

"Maybe you just might want to part with your firearms when you have children in the house," said neighbor Chris Marsella, 29. "Or at least keep them locked up somewhere."

[From the Palm Springs, CA Desert Sun, Feb. 19, 1996]

9-YEAR-OLD OASIS BOY ACCIDENTALLY SHOT

(By Kenny Klein)

OASIS—A 9-year-old boy was shot in the chest Sunday while he and a 14-year-old friend played with a loaded handgun in the older boy's home, sheriff's deputies reported. No adults were in the mobile home when the shooting occurred, deputies said.

The younger boy, Angel Gomez of Oasis, was listed in serious condition at Desert Hospital in Palm Springs late Sunday after having surgery to remove the bullet, which entered his left arm and passed into his chest, Riverside County sheriff's deputies said.

The 14-year-old Oasis boy who deputies would not identify, was detained and turned over to Riverside County Child Protective Services because his guardians, believed to be an aunt and uncle, could not be located Sunday afternoon.

"He's not walking away from this," sheriff's Sgt. John Carlson said. The boy is "terrified and scared out of his wits."

The shooting, which deputies believe was accidental, happened about noon inside the mobile home in the 72–7090 block of Pierce Street, deputies said. The two boys apparently found the medium- to large-caliber handgun and began playing with it, deputies said.

The gun went off and struck the 9-year-old, Carlson said. The 14-year-old boy ran to a nearby mobile home where the neighbor called 911, Carlson said.

"When questioned, the 14-year-old said that the other boy shot himself," Carlson said. "The location of the wound makes that story extremely unlikely."

Deputies and an investigator waited at the mobile home for the older boy's aunt and uncle to return, but hadn't located them by 9 p.m. Investigators planned to search the mobile home for the weapon, they said, because the older boy refused to tell them where it was.

The aunt and uncle could face a felony charge of leaving a loaded firearm where a child can obtain and improperly use it, Carlson said. The maximum sentence for a conviction would be three years, he said.

The 9-year-old boy lives near the park and often hangs around the area, deputies said.

"Angel is such a nice boy but the other boy is a little wild," said trailer park resident Raquel Sanchez, 39. "I can't believe this happened."

Angel's family feared for his life.

"I hope my brother is going to be OK," said 13-year-old Blanca Gomez, the boy's sister. "I'm so worried."

Both boys attend Oasis School, she said.

Mrs. BOXER. I yield the floor at this time.

Mr. CRAIG. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO COMMIT WITH AMENDMENT NO. 3235

(Purpose: To provide for firearms safety, and for other purposes)

Mr. LOTT. Mr. President, I move to commit the pending legislation to the Judiciary Committee to report back forthwith in status quo with an amendment as follows.

I send the text to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] moves to commit the pending bill to the Judiciary Committee with instructions to report back forthwith in status quo and with the following amendment, No. 3235.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3235) is as follows:

In the appropriate place insert the following:

SEC. . FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. . FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) undertaking educational and training programs for—

"(A) criminal justice personnel; and

"(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;";

(2) in the first sentence of subsection (b), by inserting before the period the following: "and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)"; and

(3) by adding at the end the following:

"(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

"(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

"(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

"(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

"(A) is not of a sufficient size to justify an evaluation; or

"(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3236 TO INSTRUCTIONS

(Purpose: To provide for firearms safety, and for other purposes)

Mr. LOTT. I send an amendment to the desk to the instructions and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3236 to the instructions.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word of the amendment, and insert the following:

SEC. . FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. . FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) undertaking educational and training programs for—

"(A) criminal justice personnel; and

"(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;";

(2) in the first sentence of subsection (b), by inserting before the period the following: "and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)"; and

(3) by adding at the end the following:

"(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

"(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

"(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

"(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

"(A) is not of a sufficient size to justify an evaluation; or

"(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 2, 1998; or

(2) the date of enactment of this Act.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3237 TO AMENDMENT NO. 3236

(Purpose: To provide for firearms safety, and for other purposes)

Mr. LOTT. I now send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3237 to amendment No. 3236.

The amendment is as follows:

Strike all after the word "Firearms" and insert the following:

SAFETY.

(a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. . FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) undertaking educational and training programs for—

"(A) criminal justice personnel; and

"(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;";

(2) in the first sentence of subsection (b), by inserting before the period the following: "and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)"; and

(3) by adding at the end the following:

"(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

"(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

"(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

"(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

"(A) is not of a sufficient size to justify an evaluation; or

"(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.".

UNANIMOUS CONSENT REQUEST

Mr. LOTT. Mr. President, I will be happy to withdraw this action just taken if the Senator from California would be willing to agree to the following consent, which I will now propound. This consent would allow for a vote in relation to the Craig gun safety issue as well as the Boxer trigger lock issue. I hope the Senator would consider and would agree to the consent.

I ask unanimous consent, then, that the pending Boxer second-degree amendment be withdrawn and the motion to commit be withdrawn and the first-degree amendment be laid aside and Senator CRAIG be immediately recognized to offer a first-degree amendment relative to gun safety.

I further ask that there be 90 minutes for debate on both the Boxer and the Craig amendments combined, to be equally divided between Senators CRAIG and BOXER, with no second-degree amendments in order to either amendment, and following the conclusion or yielding back of time, the Senate proceed to a vote on or in relation to the Craig amendment, to be followed immediately by a vote on or in relation to the Boxer amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, reserving the right to object, this may work out fine, I say to the majority leader. We just want a little time to share it with a few Senators here who are very involved in this amendment. So at the moment I will object, keeping the door wide open to eventual agreement, but we would like to have about 15 minutes to look it over.

Mr. LOTT. If I might say to the Senator's objection, I think this is a fair way to consider this issue. The Senators have time to state their position on both sides of the issue and we could then come to a vote on both of them. My effort here is to try to get it set up in that way where each side gets a fair vote, each side gets a fair time to debate it. I hope the Senator will give consideration to that. If the Senator likes, until we can decide exactly how we might proceed, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader.

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, I ask unanimous consent that the pending Boxer second-degree amendment be withdrawn and the motion to commit be withdrawn and the first-degree amendment be laid aside and Senator CRAIG be immediately recognized to offer a first-degree amendment relative to gun safety.

I further ask unanimous consent that there be time between now and 4:45 for debate on both the Boxer and the Craig amendments combined, to be equally divided between Senators CRAIG and BOXER, with no second-degree amendments in order to either amendment; that following the conclusion or yielding back of time, the Senate proceed to a vote on, or in relation to, the Craig amendment, to be followed immediately by a vote on, or in relation to, the Boxer amendment; further, that there be 2 minutes of debate prior to the vote in relation to the Boxer amendment.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, and I shall not object, I ask the majority leader if he will be willing to allow a straight up-or-down vote on both measures and rule out the tabling motion. Will he be willing to incorporate that in the UC?

Mr. LOTT. First of all, I thank the Senator for working with us to get what I believe to be a fair amount of time and a vote on each issue. We will not be able to amend it to allow for that vote. We have to have the option for a motion to table.

Mrs. BOXER. I am disappointed, because I think it is a very clear vote: Either you are for child safety locks or not. I would have preferred that, but in the interest of moving this bill forward, I do not object to the unanimous consent request.

Mr. CRAIG. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I will be offering a first-degree amendment in a few moments if this is accepted. I think for the sake of all Senators understanding what is in that amendment, I will require an additional 5 minutes of time for the explanation of that amendment.

Mr. LOTT. Mr. President, can we amend the unanimous consent request to take it then to 4:50 p.m.?

Mrs. BOXER. As long as it is equally divided—you get the extra time, and we get the extra time—that is fine with us.

Mr. LOTT. I make that request then.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Idaho is recognized.

(Amendment No. 3231, Lott motion to commit with amendment No. 3235, Amendment Nos. 3236 and 3237 were withdrawn.)

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 3238

(Purpose: To provide for firearms safety, and for other purposes)

Mr. CRAIG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for himself and Mr. HATCH, proposes an amendment numbered 3238.

Mr. CRAIG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. . FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) undertaking educational and training programs for—

"(A) criminal justice personnel; and

"(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;";

(2) in the first sentence of subsection (b), by inserting before the period the following: "and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)"; and

(3) by adding at the end the following:

"(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

"(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

"(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

"(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

"(A) is not of a sufficient size to justify an evaluation; or

"(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

Mr. CRAIG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. Mr. President, I have sent the amendment to the desk. I thank my colleagues from California and Illinois for raising the issue of firearms safety. All of us are concerned about it. We should be. There is no question that this Senate should express itself. But I think it is wrong to suggest that one size fits all and that Washington has the right answer. Even as the Senator from California was speaking, she was talking about local community and State law that was changing the character of gun ownership and the management or the safe handling of guns. And that is exactly what my amendment offers.

It recognizes that there is no quick fix to the tragedy of juvenile crime and firearm accidents. But it does recognize the importance of making available safety devices of all kinds to fit all circumstances, not just a trigger lock but a safe, a box, a lockbox, all of those kinds of things that should be required and made available to gun purchasers by the community of interests that sells guns and small business people who offer those types of firearms to the public.

First, it expands the definition of "safety devices" to include, as I have mentioned, a variety of devices besides just trigger locks. I think it is important that we do that.

My amendment requires that vendors have these safety devices available for sale, but it does not require that a vendor sell a safety device along with every firearm. It certainly does say that a vendor must make these available and that the purchasing public become aware of it.

It is also important that my amendment helps to ensure that this new requirement is entirely tort neutral. The amendment provides that it does not establish a standard of care or it further states that evidence regarding compliance or noncompliance with this requirement is inadmissible in court. The amendment, therefore, does not hurt nor help a plaintiff or a defendant.

Finally, my amendment helps to ensure that State and local authorities are prepared to train members of the public in the safe possession, carrying, and use of firearms. As you know, 34 States have now passed and empowered our citizens to carry concealed weapons for protection. Therefore, it is critical that we as a citizenry advance the cause of education.

My amendment allows for Byrne grant funds to be used by State and local law enforcement agencies to train the public in the safe handling of firearms and to make a positive contribution in that education. The statistics that are real that I have spoken to this afternoon and that the Senator from California has spoken to can be dramatically reduced by education, by training, and by understanding. It is evident because we see the decline in gun accidents today.

We also know that there are a variety of organizations out there that are

actively involved in working to train our citizens as it relates to the safe use of firearms. So my amendment is much broader. It is not a mandate, but it certainly requires the full complement of gun safety equipment and necessary attributes to be sold and made available to gun owners, and it provides education and educational moneys for local and State law enforcement agencies to begin to train and educate our citizenry as it relates to this important issue.

More and more States are moving to the right of citizens to carry guns. Thirty-four States have now said, by their action, that the citizen is empowered to carry a weapon for the purpose of protection; yet there is a decline in the number of accidental deaths by guns. That can come, as it is coming, by education. We are empowering, by this amendment, our State and local governments to do just that.

Let me close by saying this: The provision that I offer is an amendment that was offered and adopted by the Judiciary Committee last year during its markup on S. 10, the juvenile crime bill. I urge my colleagues to agree with the consideration and the judgment of the Judiciary Committee. Senator ORRIN HATCH, the chairman of the Judiciary Committee, is a cosponsor with me of this amendment. It has had full consideration and acceptance by that committee.

So it is not something that is quick to judge. It is something to recognize that as we debate the safety of the use of firearms, that we assure the public the availability of equipment and devices to ensure and broaden that safety and, most importantly, it provide the necessary educational components to offer that.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from California.

Mrs. BOXER. Mr. President, it is my understanding that I will be controlling 5 minutes at this time, correct?

The PRESIDING OFFICER. Five-and-a-half minutes.

Mrs. BOXER. Five-and-a-half minutes.

It is my intention to yield most of my time to my colleague from Illinois. When I first heard about the Craig amendment and looked it over, without getting into the details, I thought this looked like something I could support. Now I am having doubts about it due to the enforcement provisions.

I am going to turn it over to my friend and colleague from Illinois.

I yield 4 minutes to the Senator from Illinois.

Mr. DURBIN. I thank the Senator from California.

For those who missed a few innings and would like to know what the score is, what happened, the Senator from California offered an amendment which requires a trigger lock be sold with each handgun in America. And she does a few things procedurally so we are going to have an up-or-down vote. And, of course, there are people who do not want to vote on that. They are afraid of—well, let us not say that. There are people who disagree with her. There are people who don't want to vote on it.

The Senator from Idaho, who openly opposes her amendment, comes in with what he considers to be a substitute amendment. That is what we are debating now. The good part is, when it is all over, we get to vote on both of them: The proposal of the Senator from Idaho, which I have in my hand, that he just described, and then the proposal of the Senator from California, which says, "Sell a handgun in America, sell with it a trigger lock."

Originally, the Senator from California and I thought: No harm, no foul; we will take the Craig amendment and get a vote on her important trigger lock amendment. And then we took a closer look. Do you know what this says? This says to comply with the law in America, a federally licensed firearm dealer must have available on the premises for sale a trigger lock or safety device—available on the premises.

Then it has some words, some escape-hatch words in there that says, "unless it is tough for you to buy them." If you cannot get them on the market, and such, then you do not have to have them on the premises. Do you have to sell them with the handguns? No; you just have to have them on the premises. I have to tell you, quite frankly, most of them probably have them on the premises now, but if people aren't buying them, then there is no safety aspect to this. We aren't protecting anybody.

So what it boils down to is, we are putting a requirement in the law that really does nothing. Then there is an interesting provision in here—and I do not know why the Senator from Idaho included it—but I might call him to reference page 4 of his amendment, section (2). It says, incidentally, if the federally licensed firearm dealer does not live up to the requirements of this law and keep trigger locks on the premises for sale, and you find evidence of that and want to use it against him to remove his license—guess what?—under section (2) you can't—you can't. "Notwithstanding any other provision of law, [any] evidence regarding compliance or noncompliance with the amendments . . . [none of it is] admissible as evidence in [the court or any agency.]"

Mr. CRAIG. Will the Senator yield?

Mr. DURBIN. I will yield when I have completed. I thank the Senator.

I think that really tells the story. First, there is no requirement, and if there were, it is unenforceable. So this really is eyewash. This is an opportunity to have something to vote for, but the real something is coming. It is the amendment by the Senator from California.

Basically, what we are talking about now is whether or not we are for trigger locks to protect children. I am in favor of firearms safety and education. But the bottom line is that little trigger lock put on a revolver or a handgun keeps it from destroying another child's life.

We can vote for or against the amendment of the Senator from Idaho, but after it is all said and done, the real deal here is the amendment by the Senator from California, Senator BOXER. She is the one who says, you do not just have to have trigger locks on the premises, you have to sell them with the gun. You have to make sure the gun owner walks out with a trigger lock, not just a nod and a shelf with a trigger lock on it. I am afraid that nod is all we get from the Senator from Idaho. It is not good enough. It will not save a life. It is, in fact, an effort by some to find something for which to vote. I hope they will find in their hearts enough empathy for the real problems facing America to support the Senator from California.

Mr. HATCH. Mr. President, I rise to oppose this amendment offered by the Senator from California, and to join Senator CRAIG in offering our own amendment on this issue. I want to commend my colleague for raising the issue of firearms safety, but I believe that there is a better approach to this issue than the one size fits all, Washington knows best proposal offered by the Senator from California.

At the outset, let me say that I understand the strongly held views of my colleagues. My colleagues who are offering this amendment are searching for easy answers and quick fixes to the tragedies of juvenile crime and firearms accidents. I would tell them this: there are no easy answers, and there are no quick fixes. In the face of difficult problems, it is always tempting to look for easy answers. I do not believe that we should succumb to this temptation.

We can pass another federal law adding this gun control measure or that, but the problem won't go away. Because, Mr. President, the problem isn't guns, or a lack of safety devices, or the lack of any other gun control measure.

We are faced, I believe, with a problem which cannot be solved by the enactment of more federal gun control laws. It is at its core a moral problem. Somehow, in too many instances, we have failed as a society to pass along to the next generation the moral compass that differentiates right from wrong. This cannot be legislated. It will not be restored by the enactment of a new law or the implementation of a new program. But it can be achieved by communities working together to teach accountability by example and by early

intervention when the signs clearly point to violent and antisocial behavior, as seems to be the case in some of these tragedies.

Now, I would like to debate this issue. I think the Senate should be debating juvenile crime legislation. The Judiciary Committee spent eight weeks last summer marking up the most comprehensive reform of the Juvenile Justice and Delinquency Prevention Act in that law's twenty-five year history. We could debate how to restore accountability to a broken juvenile justice system. We could debate how to fix a broken system that fails too many of our young people, so that it protects society. But we are not doing that. Instead, we will debate more gun control.

I should note for my colleagues that this particular provision has already been debated. The Judiciary Committee considered it last summer, and defeated it. Well, here it is again. So, we will debate it yet again.

This amendment would require a particular safety device to be sold with every firearm. My colleagues who are considering supporting this amendment should understand that no safety device is a substitute for firearm safety training and responsible firearm handling. Relying on a trigger lock as a panacea for firearm safety is irresponsible and short-sighted.

As an initial matter, there is no locking device that can be placed on a loaded firearm which can render it failsafe. Most locking device manufacturers specifically advise against the use of locking devices on a loaded gun. Requiring firearm manufacturers and licensed gun dealers to provide locking devices may send a dangerous message to the American public that it is "OK" to use the locking device on a loaded firearm. In fact, tests show that a loaded firearm affixed with a locking device can still fire. Requiring manufacturers to provide trigger locks with each firearm, therefore, takes a "one size fits all" approach to firearm safety. Because of firearm design differences, not all firearms can be properly safeguarded with a trigger lock.

Firearms safety training emphasizes personal responsibility in handling a firearm. Education and safety training has been instrumental in lowering firearm accidents and accidental deaths to its lowest point since 1904 (National Safety Council, Accidental Facts, 1996). In 1995 alone, accidental firearm fatalities fell 7%. Due in large part to firearms education, promoted by organizations like the National Rifle Association, the Hunter Education Association, and other volunteer groups, firearms were involved in 1.5% of all accidental deaths nationwide. This percentage is lower than deaths due to motor vehicle accidents (47%), falling (13.5%), poisoning (11.4%), fire 4.4%), and choking (3%) (National Safety Council, National Center for Health Statistics).

Additionally, different circumstances dictate how an individual stores his firearm. While some people may choose to lock their firearms in a safe, someone else may choose to keep their firearm readily accessible for self-protection. Thus, locking devices may or may not be compatible with a person's lifestyle and reason for owning a firearm.

Mr. President, safety locks are already widely available, as are a wide range of other firearms safety devices. Industry is already making strides in offering these devices for sale. We do not need yet another federal mandate imposing a one size fits all safety "solution" on America's law abiding gun owners.

Instead, I offer my colleagues an alternative. My proposal will do far more to promote true firearms safety, and it is far more respectful of the common sense of the American people, than my friend's proposal. My amendment does three things. First, it expands the definition of safety devices to include not only devices that render a firearm temporarily unusable, but also temporarily inaccessible. As a result, my second degree amendment includes safety devices, such as safes and lock boxes, that do not disable a firearm, but make it at least temporarily inaccessible to a person.

Second, my amendment requires that vendors have safety devices available for sale, but it does not require that a vendor sell a safety device along with every firearm. Having them available for sale will help to ensure that purchasers will obtain, and thereafter will use, a safety device, without necessarily increasing the cost of the purchase. The Administration's provision embodied in my colleague's proposal would increase the cost of purchasing a firearm, which is unnecessary. Some safety devices, such as a safe or lock box, can hold more than one firearm, so there is no need to require that a person buy a new safety device if buying a second firearm.

Third, my amendment helps to ensure that this new requirement is entirely tort neutral. The amendment provides that it does not establish a standard of care, and it further states that evidence regarding compliance or noncompliance with this requirement is inadmissible in court. The amendment therefore does not help or hurt a plaintiff or a defendant.

Finally, my amendment helps to ensure that state and local law enforcement authorities can train members of the public in the safe possession, carry, and use of firearms. This is valuable. Training is the best way to ensure that firearms are treated with respect, but not with fear. Firearms handling is an important part of the training process for every soldier and every law enforcement officer, and it can be a valuable tool for private citizens. After all, about 34 States—including my home state of Utah—now empower citizens to carry concealed firearms for protection. Allowing Byrne grant funds to be used by state and local law enforcement agencies to train the public in the safe handling of firearms will make a positive contribution to safety and to crime prevention.

Taken together, all of these provisions deal with the issue of firearms safety in a far better manner than the amendment offered by my colleague. Moreover, this is the provision adopted by the Judiciary Committee last year, during the mark-up of S. 10, the Juvenile crime bill. I urge my colleagues to agree with the considered judgment of the Judiciary Committee, and support my alternative to this amendment.

Mrs. BOXER. Mr. President, it is very hard for me to vote for something that has so many loopholes in it. Maybe during the time in the well the Senator from Idaho can convince me of this, but basically you can't use evidence as evidence. That is what the words say. Here it is:

> Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence.

So you can't use evidence as evidence. I don't know—this is confusing.

I just say to my friends and colleagues, there is only one reason we have taken so much time on this. I was wondering what was going on here, because I came to the floor very early this morning and said let's vote up or down to require that child safety locks be put on handguns, because 5,000 kids are dying in America in a year and no kids are dying in Japan of gunshots. As you look at this chart, you can see that.

This is a figleaf, a cover. I don't think it does anything. People can vote the way they want. The next vote is the key vote.

The PRESIDING OFFICER. All time has expired. Under the previous order, the question is on agreeing to the Craig amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 72, nays 28, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—72

Abraham	Collins	Gorton
Allard	Conrad	Graham
Ashcroft	Coverdell	Gramm
Baucus	Craig	Grams
Bennett	D'Amato	Grassley
Bingaman	Daschle	Gregg
Bond	DeWine	Hagel
Breaux	Domenici	Hatch
Brownback	Dorgan	Helms
Bryan	Enzi	Hollings
Burns	Faircloth	Hutchinson
Campbell	Feingold	Hutchison
Coats	Ford	Inhofe
Cochran	Frist	Jeffords

Johnson	McConnell	Shelby
Kempthorne	Moseley-Braun	Smith (NH)
Kerrey	Murkowski	Smith (OR)
Kyl	Murray	Snowe
Leahy	Nickles	Specter
Lieberman	Reid	Stevens
Lott	Roberts	Thomas
Lugar	Roth	Thompson
Mack	Santorum	Thurmond
McCain	Sessions	Warner

NAYS—28

Akaka	Glenn	Moynihan
Biden	Harkin	Reed
Boxer	Inouye	Robb
Bumpers	Kennedy	Rockefeller
Byrd	Kerry	Sarbanes
Chafee	Kohl	Torricelli
Cleland	Landrieu	Wellstone
Dodd	Lautenberg	Wyden
Durbin	Levin	
Feinstein	Mikulski	

The amendment (No. 3238) was agreed to.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that following the next vote, the Senate resume consideration of the Smith amendment No. 3234, and there be 20 minutes equally divided, with the vote occurring on or in relation to the amendment at 6 o'clock this evening.

Mr. HOLLINGS. Mr. President, I have no objection, with the understanding that 10 minutes on this side be reserved for the distinguished Senator from Illinois, Mr. DURBIN. I have no objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3230

Mr. CRAIG. Mr. President, I move to table the Boxer amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There are 2 minutes evenly divided.

Who yields time?

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, colleagues, please vote for this regardless of how you voted before. Too many children are dying in America because we are not——

The PRESIDING OFFICER. Will the Senator please suspend for a moment.

The Senate will be in order.

The Senator from California is recognized.

Mrs. BOXER. We are not acting to make sure that there are these safety locks placed for children, specifically to stop their deaths from handguns sold in America.

Look at these numbers. Look at this collage of headlines. How many more deaths do we need to see before we act?

I yield the remainder of my time to Senator BIDEN.

Mr. BIDEN. Mr. President, let's stop being hypocritical. We just passed an amendment saying safety is important; the NRA is eligible for Federal funds to teach safety. If the ultimate safety of children is what we are concerned about, why are we so upset about the idea that trigger locks will be placed on guns? How can you vote, as I will and have, to give the NRA eligibility to teach gun safety, which I want them to do, and say that is important, but it is not important to take the one step we can that will at least incrementally increase safety of children in the United States of America?

Please vote no on the motion to table.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Idaho.

Mr. CRAIG. Mr. President, 72 of you have just said that gun safety is important, and that we ought to educate, and we ought to use Byrne funds to do so—local law enforcement, State law enforcement, and private entities that teach licensed gun safety.

We have also said that gun dealers ought to have safety devices available. But we have also said there is a States rights issue here. Thirty-four States now have consent to carry. Safety is an issue. And guess what. Accidental deaths are declining, and they are declining because of education, not because of Federal mandates. Even manufacturers say you put a trigger lock on a loaded gun and it is dangerous.

Trigger locks I agree with. They are for empty guns. They are for stored guns. They are not called child locks, they are called safety locks. We believe in that. But why should it be a Federal mandate? It should not be.

The vote you just cast is the right vote. It mandates certain requirements at the local level be provided, and it allows education, and, more importantly, it says train and educate, don't control from the Federal level. Do the right thing. Vote to table. You have cast a sound vote; 72 Senators have said that the right action was the action you have just taken.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the motion to table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 61, nays 39, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—61

Abraham	Collins	Grassley
Allard	Conrad	Gregg
Ashcroft	Coverdell	Hagel
Baucus	Craig	Hatch
Bennett	D'Amato	Helms
Bond	Domenici	Hollings
Breaux	Dorgan	Hutchinson
Brownback	Enzi	Hutchison
Bryan	Faircloth	Inhofe
Burns	Frist	Jeffords
Campbell	Gorton	Kempthorne
Coats	Gramm	Kyl
Cochran	Grams	Leahy
Lott	Robb	Snowe
Lugar	Roberts	Specter
Mack	Roth	Stevens
McCain	Santorum	Thomas
McConnell	Sessions	Thompson
Murkowski	Shelby	Thurmond
Nickles	Smith (NH)	
Reid	Smith (OR)	

NAYS—39

Akaka	Feinstein	Levin
Biden	Ford	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Bumpers	Harkin	Moynihan
Byrd	Inouye	Murray
Chafee	Johnson	Reed
Cleland	Kennedy	Rockefeller
Daschle	Kerrey	Sarbanes
DeWine	Kerry	Torricelli
Dodd	Kohl	Warner
Durbin	Landrieu	Wellstone
Feingold	Lautenberg	Wyden

The motion to lay on the table the amendment (No. 3230) was agreed to.

Mr. GREGG. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, there will now be 20 minutes of debate divided evenly on amendment No. 3234.

Who seeks recognition? Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is there an order established at this point?

The PRESIDING OFFICER. There is a time limit. Time is controlled by the Senator from New Hampshire.

Mr. HOLLINGS. And the Senator from Illinois.

The PRESIDING OFFICER. And the Senator from Illinois.

Mr. DOMENICI. I ask unanimous consent that I be permitted to speak for 2 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPROPRIATIONS BILLS

Mr. DOMENICI. Mr. President, the last couple of weeks we have all been on the floor trying to get appropriations bills completed. I would just like to submit to the U.S. Senate that we ought not be doing this every year.

Don't we have enough knowledge and wisdom and information to appropriate every 2 years instead of every year? Don't we have enough information about budgets and estimating that we could do a budget that lasted for 2 years and make automatic economic adjustments? Of course we do.

Mr. President, if the authorizing committees are wondering why they do not have a chance to do things around here, this is one reason. Because we hardly have enough time to do the appropriations bills. Because they are up every year as if we were in constant motion. In fact, I defy even Senators with the best recollection to recall one

appropriations bill from another year by year. They are so often that they are all one big glob of votes.

Frankly, the Senator from New Mexico had made a mistake this year, because there is a bill at the desk saying we ought to do this every 2 years. We would get our job done better and we would have oversight time and the Senate would be a better place to work in and could do its business better. I should have started 4 months ago insisting that that bill for 2-year budgets and 2-year appropriations be voted on by the U.S. Senate.

But I can tell the Senate, it will be voted on the next opportunity when our leader has some time, and it may be early next year. We are going to get that bill out of committee, and we are going to vote on this issue of whether we have to do this every single year.

Frankly, we now have evidence that these bills are 90 to 95 percent similar one year over another. I know chairmen feel they have made dramatic changes year over year; and, yes, they may have. They also passed the appropriated money for bills that have not been authorized, and they know that. And their response is, "Nobody's doing it, so we have to do it." Well, nobody is doing it because there is no time for anybody to do it.

Mr. President, I believe many Senators agree with this. I have talked to them at length on it. Frankly, we are going to decide in the Senate pretty soon whether we are going to keep on doing this. I am not sure we will win, but surely we are going to present this issue.

I thank the Chair and yield the floor.

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 3234

Mr. DURBIN. Could I have a clarification? I want to make sure the Senator from New Hampshire and I have an understanding about the pending amendment. It is my understanding—I hope the Senator from New Hampshire would follow me in this—that we have some 20 minutes left in debate, equally divided between the Senator from New Hampshire and myself, at which point at the end of that debate there will be a vote. Is that the Chair's understanding?

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. I thank the Chair and ask the Senator from New Hampshire——

Mr. GREGG. Will the Senator yield?

Mr. DURBIN. Yes.

Mr. GREGG. I understand the vote is to occur at 6 o'clock.

The PRESIDING OFFICER. That was the order, but Senator DOMENICI took 2 minutes as in morning business which will push back the vote.

Mr. SMITH of New Hampshire. Mr. President, I would be willing to have the 2 minutes that Senator DOMENICI used come off of my 10 minutes in order to keep the vote at 6 o'clock. I ask unanimous consent to do that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Who yields time?

Mr. DURBIN. Mr. President, thank you. I will take a portion of the 10 minutes to start with and then allow my colleague from New Hampshire to state his side of the case on behalf of this amendment.

Let me try to explain where we are in terms of what this amendment is doing. We are trying to set up a computer check across the United States, so if you purchase a firearm, there is a way for States or the Federal Government to check and see whether you have a history of having committed a felony or a history of mental illness, and in that situation States are saying, "Of course we do not want to sell a gun to you." And that is the basic Brady law.

Most people support it because it is eminently sensible that we want to keep guns out of the hands of people who are likely to misuse them. I think everybody supports that. The NRA and the people on the other side of the issue even support it.

The Senator from New Hampshire comes before us, though, with a very interesting proposition. The Federal Bureau of Investigation does these background checks by computer. They have said that, "When we do these background checks, we will charge the prospective gun purchaser, the one who wants to buy the gun, for our cost in doing the background check." And of course that sounds reasonable to me.

If I want to purchase a gun, and I want to have a background check to qualify me for a gun, it is not unreasonable for me to expect to pay for what it costs for that to happen. Why should this be the burden of every taxpayer in America, those who do not own guns and those who are not purchasing guns? It really is a decision that I want to buy a gun; and, therefore, I am going into the system to prove that I am eligible to own a gun.

The Senator from New Hampshire says: Wait a minute. Why do we want to charge the prospective gun purchaser for this background check? Shouldn't the Treasury pay for that? Shouldn't all the taxpayers pay for these people who want to buy guns?

I do not think so. And the practical result of the amendment of the Senator from New Hampshire is to take from the Federal Bureau of Investigation the amount of money they would have collected to do these background checks. And you know what that means? It means basically the Federal Bureau of Investigation will have anywhere from $50 to $75 million less in their appropriation to do their job.

Well, can they absorb a $50 to $75 million hit? I think we can all answer that question, because we all come to this floor and come up with wonderful ideas for the FBI to get involved. We want the FBI to fight terrorism. Of course we do. We want to make sure that they are fighting it around the world and protecting people across the United States. And so we say, "We're assigning that responsibility to you." The Senator from New Hampshire says, "Yes, we give you the responsibility. We're not going to give you the money you need to do the job."

We also say we want the FBI to go after some serious issues. Let me give you an example—crimes against children, to enhance the FBI's capabilities to combat child abductions, and serial killings. This is the responsibility we give to the FBI. The Senator from New Hampshire says: It is a great responsibility, but take the money away from them—$50 to $75 million less each year.

How about narcotics? Is there a more serious criminal problem in America? What is filling our prisons? What is tempting our children? What is leading to the kinds of degradation in lifestyle that we see around this country, but basically the war on drugs, the war on narcotics?

So the Senator from New Hampshire says: Let us take some money away from that, too, because we want people who apply for a gun not to have to pay for it. We want the Treasury to pay for it. We want the FBI to take this money from other sources. I do not think that is fair.

I do not think it is fair for an agency with this sort of responsibility. And I do not think it is fair for those who want to purchase a gun to say, "We want a free ride." For goodness' sakes, it is their decision to purchase a gun. They are going forward in the system to purchase it. Shouldn't they pay their own freight?

Would you think twice about buying a car and trying to get a license and say, "I just decided to buy a car, but as far as the cost of the license for my car, why should I have to pay for that? Taxpayers ought to pay for that. I just want to drive the car"? That is what the Senator from New Hampshire is arguing.

Mr. BIDEN. Will the Senator yield?

Mr. DURBIN. I will be happy to.

Mr. BIDEN. Isn't it true that there are a number of background checks. Years ago I drafted a law which became law that requires certain background checks, for example, for people who wish to work in day-care centers with

young children, to try to figure out and ferret out child predators.

Now, the way it works now is if, in fact, you are going to be hired at a boys' club, a girls' club or a day care center, and they—the day care center—say they want a background check, and you have to go through the FBI, the FBI now charges the person seeking employment the cost to run the background check.

I don't understand why, if we are going to say on a background check for an employee—where the employee is seeking a job but is required by that agency to have a background check to prove, in effect, they are not a child predator or do not have any sex crime history—why it is appropriate to charge the prospective employee and it is not appropriate to charge a person purchasing a gun. There is nothing exceptional about this.

My question to my friend is, Isn't this all about reneging on a commitment everyone said they are for, which was to have an instant background check, so there is no 7-day, 5-day or 1-day waiting period, so every single gun seller in America, when they go to sell you a gun, can push a button, tap into a computer, and have the computer say you can or cannot sell it? It seems to me this is about doing away with the instant check.

Mr. DURBIN. The Senator from Delaware is correct. The instant check system was proposed by the National Rifle Association as a way of avoiding the Brady law. They said, "We will do this by computer; we will punch it in."

The fellow who is selling the gun, the dealer, will punch in the information and find out if you are a dangerous person; if not, they can sell it to you.

Now they have decided they want the computer check but they don't want to pay for it, they want the taxpayers to pay for it, and take the money out of the FBI.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I yield 2 minutes to the distinguished Senator from Alabama.

Mr. SESSIONS. Mr. President, there has been a lot of talk recently about more and more gun laws, more and more complicated and esoteric, having less and less ability to protect the safety of the American people.

Let me tell you we have some outstanding, effective gun laws on the books now that allow people who are felons to be prosecuted for possessing a gun, that allow the prosecution of people who carry a gun during a felony to receive 5 years without parole, consecutive to any other offense.

Look at what this administration that is always talking about gun prosecutions has done. In 1992, when they took office, there were 7,048 "triggerlock prosecutions" of serious gun offenders in this country; now, 1997, 3,765. It has plummeted that percent.

What they need to do is enforce the laws they have and quit worrying about passing laws that are not very relevant and not going to have any impact on crime in America. I think the American people need to understand that.

I yield back the remainder of my time.

Mr. SMITH of New Hampshire. I yield 1 minute to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my colleague for yielding.

Let's talk money. The program has been fully funded. Some $37.5 million in the last 4 years has been provided. The FBI budget has been almost tripled in the last 10 years.

Let me talk about Janet Reno. Here is what Attorney General Janet Reno said, on May 26, 1994: She does not intend to charge for such access, provided that there is sufficient appropriations.

Guess what? We have given them every dime they requested and many, many millions more. Sorry, Janet Reno. Why don't you stay with your word? That is what you told us. That is what we believed when we passed the Brady bill.

What is this? This is a gun tax. Let's talk about it for what it is. The FBI asked for money and we gave them money. In fact, we tripled their budget in the last 10 years. Why? Because we are interested in law enforcement. We want criminals caught. Most importantly, we want criminals prosecuted. We do not want law-abiding citizens taxed.

Mr. SMITH of New Hampshire. How much time remains on this side?

The PRESIDING OFFICER. The Senator has 4 minutes 14 seconds.

Mr. SMITH of New Hampshire. Mr. President, let me explain this amendment. I have heard some very interesting remarks on the other side about Brady and registration. That is not what my amendment is—very eloquent, but that is not what my amendment is.

My amendment does three things. First, it prevents the FBI from keeping a file on a law-abiding citizen who, after he had the gun checked, came up fine, clear. Why would we want the FBI to maintain a file on a law-abiding gun owner who did nothing wrong except exercise his constitutional right to own a gun? They want 18 months to keep these files. I don't want 18 seconds. I want these files destroyed immediately. That is point one in my amendment.

Second, my amendment prevents the FBI from imposing a tax on people who use this national instant criminal background check system because they want simply to exercise their right to own a gun. That is the second point. Why should they be taxed for that? Why should they pay this fee? It could be up to $20 to $25 just to do this—maybe more. That is to start. There is no reason why anybody should pay a fee. You are an individual who has a constitutional right to own a gun. Somebody in the Government decides that they want to check you out, fine. You check out clear. Why should you have to pay for that? You didn't ask for it; it is your right. The person who is a criminal or a person who is not entitled to have that gun because of something they did, fine, they can pay for it, and they should pay for it and they shouldn't get the gun. But that is not the people about whom we are talking.

Third, if the Government, in violation of the law, holds these files, you have the right to pursue this matter in court, which is the proper procedure.

I simply ask my colleagues, Why would you keep a file in the FBI on an innocent person who did nothing except own a gun, which is his constitutional right to do so? That is what this amendment is about. If you want those files maintained, then you would vote against this amendment. This is Big Brother at its worst. It is Big Brother at its worst.

It is coming in and taking privacy—your privacy; you have the right not to have that file in the FBI, and they don't have the right to put it there, because you did nothing wrong. That is what this amendment is about.

Secondly, it is about a tax. If you want to charge these fees, so be it. But then you can vote against my amendment.

I yield the floor.

Mr. DURBIN. How much time do I have remaining?

The PRESIDING OFFICER. Two minutes 45 seconds.

Mr. DURBIN. If I understand the argument of the Senator from New Hampshire, because we have a constitutional right to bear arms, all of the Federal taxpayers have to subsidize that right.

I suppose since we have a constitutional right to exercise our religious belief, then it is the responsibility of taxpayers to pay for my priest or minister. I don't think so. I don't think so.

In this situation, the American people are coming forward and saying, "We want to exercise our right to own a gun." We are saying, "Fine, so long as you don't misuse it and you are not a person with a background where you are likely to misuse it." And if you are going to submit yourself to this background check, be prepared to pay for it.

The Senator from Delaware makes a good point. If we are going to hire people to work in nursing homes and child care facilities that need background checks—and that is not a bad idea—why shouldn't they, as a condition of employment, pay for the background

check? Why should this be the responsibility of every taxpayer?

The Senator from New Hampshire wants to say to the prospective gun owners they have the right to come to the Government and say, "I want it for nothing." When you get it for nothing, someone will pay for it. In this situation, the FBI pays for it.

Do you know why the FBI appropriation has gone up, as the Senator from Idaho has said? Because we keep giving them more responsibilities—do fingerprint checks on anybody who wants to be a new citizen in the United States; get serious about dealing with drugs across borders, make certain that you have the wherewithal to do it; fight terrorism. We tell them to do all of these things and now the Senator from Idaho says they should have enough money to absorb this $50 to $75 million loss. I think they are wrong.

I think those who are for law and order and for law enforcement have to vote against this amendment offered by the Senator from New Hampshire. Let those who want to purchase a gun and exercise their right, exercise their responsibility to pay for this check, to make certain that those people who worry about gun violence have less to worry about.

I hope my colleagues will join me in opposing this amendment from the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire has 1 minute 22 seconds.

Mr. SMITH of New Hampshire. I respond to my friend by repeating what Senator CRAIG said a moment ago. There is $100 million in the law to do this, so we don't need to be charging additional fees. That is No. 1.

No. 2, it is interesting how we pick out certain constitutional rights and say we are going to tax them and not others. Maybe we should tax everybody for having free speech. Or maybe we should tax everybody for reading the newspaper. Maybe we should tax everybody for going to church.

It doesn't make sense. It is our constitutional right.

Let me repeat, again. No. 1, this amendment prevents the FBI from keeping files on innocent people who simply had a background check done on them who did nothing wrong and were perfectly entitled to own a gun.

Secondly, the amendment prevents the FBI from imposing a tax on these people. Thirdly, it allows a person to go to court if the FBI does that. We have seen abuses by the FBI. We have seen files held in the White House. Do you want this to go on? That is what this issue is about. That is what my amendment is about. I hope my colleagues will support me on this amendment because this is more than a gun issue—this is a privacy issue.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Illinois has 30 seconds.

Mr. DURBIN. Mr. President, the $100 million we have invested is for the hardware for the computers. It now costs $13 to $16 every time they do a background check. I think the people should pay for it. The Senator from New Hampshire would take the money out of FBI for other law enforcement. I think the FBI needs these funds to do important tasks. I hope the Senator will agree that the FBI is an agency that we need to be strong in the United States. Taking $50 million to $75 million away from them is not going to make them a stronger agency or make Americans any safer at home.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 3234 offered by the Senator from New Hampshire, Mr. SMITH.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 31, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—69

Abraham	Enzi	Lugar
Allard	Faircloth	Mack
Ashcroft	Feingold	McCain
Baucus	Frist	McConnell
Bennett	Gorton	Murkowski
Bingaman	Gramm	Murray
Bond	Grams	Nickles
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Burns	Hagel	Rockefeller
Campbell	Hatch	Roth
Chafee	Helms	Santorum
Coats	Hollings	Sessions
Cochran	Hutchinson	Shelby
Collins	Hutchison	Smith (NH)
Conrad	Inhofe	Smith (OR)
Coverdell	Jeffords	Snowe
Craig	Johnson	Specter
D'Amato	Kempthorne	Stevens
Daschle	Kerrey	Thomas
DeWine	Kyl	Thompson
Domenici	Leahy	Thurmond
Dorgan	Lott	Warner

NAYS—31

Akaka	Glenn	Mikulski
Biden	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Bryan	Inouye	Reed
Bumpers	Kennedy	Robb
Byrd	Kerry	Sarbanes
Cleland	Kohl	Torricelli
Dodd	Landrieu	Wellstone
Durbin	Lautenberg	Wyden
Feinstein	Levin	
Ford	Lieberman	

The amendment (No. 3234) was agreed to.

Mr. SMITH of New Hampshire. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3233, AS AMENDED

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the yeas and nays be vitiated on the underlying amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3233), as amended, was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

THE HEALTH CARE DEBATE

Mr. GRAMM. Mr. President, while we are waiting for someone to come over with an amendment, I want to say something about health care and about the health care debate. As long as I have been in the Senate, the minority party has always sought to have the opportunity to have an up-or-down vote on their alternatives. Senator KENNEDY has now for months demanded that he have an opportunity to offer his proposal to remake the American health care system.

We on the majority side of the aisle have spent tremendous amounts of time putting together our proposal to strengthen patients' rights to empower consumers——

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. The Senator from Texas deserves to be heard. Will Members please take their conversations off the floor?

Mr. GRAMM. I thank the Senator from West Virginia, and I thank the Chair.

Mr. President, on this side of the aisle, we have spent a tremendous amount of time, individual Members' time—not just the time of our staffs—in putting together our bill to promote patients' rights, to get the gatekeepers of Health Maintenance Organizations out of the examining rooms where medical care is being provided in America.

We now have a situation where we have Senator Kennedy's proposal, which is strongly supported by our Democratic colleagues, and we have our proposal, which is strongly supported by our Republican colleagues. What we have sought to do since we have a limited number of legislative days—we have many appropriations bills to pass—is to try to reach an agreement where we would allow something that majorities normally do not do under the Senate rules, and that is to allow the minority to have an up-or-down vote on their so-called Patients' Bill of Rights. Then, if they are unsuccessful, to have an up-or-down vote on our bill, and if we are successful, that would be the bill.

We now find that our colleagues say, "No; we want 20 amendments," or, "We want 10 amendments." I wanted to explain to my colleagues why I am going to object to any unanimous consent request that does not allow us to simply have the two choices. It is unusual in the sense that someone would object to narrowing down amendments, so I would like to explain my concern.

First of all, I don't think it is unreasonable, given our legislative schedule, to say to those who have a health care bill that we are going to give them an up-or-down vote on their bill. I don't think that is unreasonable. Obviously, a unanimous consent request alters the basic procedures of the Senate, and any Senator has the right to object to doing that.

Secondly, I am not interested in amending Senator Kennedy's bill. I don't want to try to change his bill. I want him to write the best bill he can write to try to improve our health care system and enhance the rights of health care consumers, and I don't have any interest in amending his bill.

Now, let me tell you why I don't have any interest in Senator KENNEDY and others amending our bill. I have not forgotten that the Senator from Massachusetts and many of the supporters of the Kennedy bill 5 years ago were for a Government-run HMO, the Clinton health care bill. I have not forgotten that the President was not only in favor of the Government taking over and running the health care system 5 years ago; within the past year he has said that he had not changed his objective in having a Government-run system but that he was now simply trying to implement it piece by piece.

Here is the problem this late in the legislative session of getting into endless amendments on the two bills: Not only do we not have time to do it, but we have a very unequal situation. Let me explain, and I will try to do it briefly so we can get on with this bill.

I am not interested, and I don't believe anyone on our side of the aisle is interested, in amending the Kennedy bill. I believe that we have a better bill. I think he ought to write the best bill he can, we will write the best bill we can, and then, with the limited time we have, give people a choice. But there is an additional problem here, and the problem is the unequal situation we are in.

I desperately do not want to do anything to destroy the private practice of medicine in America. I don't believe that a Government-run system is the best system. In offering amendments and writing our bill, we are constrained in that we don't want to do anything that is going to drive up costs, cost millions of American families their health insurance, and ultimately force people into a Government-run HMO.

It appears that many of our colleagues, including the author of the Democratic alternative, support a Government-run HMO, support a Government takeover, so that while we are constrained in amendments that we can offer by our desire to be certain that we don't end up killing off private medicine, many on the other side of the aisle seem to believe that private medicine should be killed off so that we can have a system that they sincerely believe will work better, and that is a system where the Government would run health care in America.

The best analogy, interestingly enough, is biblical. Some of my colleagues will remember the story in the Bible about the two women who had infants. While they slept, one infant died, and the lady whose child had died got up and took the dead baby and put the dead baby by the mother of the living baby and took the living baby herself. When the mother woke up and saw the dead child, she realized it was not her child.

To make a long biblical story short, the women appeared before King Solomon. Solomon, being wise, asked that a sword be brought. He suggested that since there was no way that anybody other than the two mothers would know whose child was really alive, that he would take the sword and divide the child. When he proposed that this be done, the real mother, of course, as all of us remember from our schooldays and reading the story in the Bible, the real mother said, "No; give her the child." The woman who was not the real mother said, "No; divide the child." Solomon, of course, then knew who the real mother was, gave her the child, and the people were awed by his wisdom.

Here is our problem. We are debating over a child on the health care bill, and the child is the private practice of medicine in America. The child is a viable system run in the private sector by doctors and nurses and hospitals that are not run by the Government, but we are in an unequal debate because many on the other side seem to want that system to die so that we can have a Government-run system.

Under those circumstances, to simply have endless amendments would not serve any purpose, given not only the limited amount of time we have, but also because, more importantly, it puts us at a disadvantage because we have no interest in offering amendments that would drive up cost, kill off private health insurance, and leave people uninsured, whereas those who really believe that you first have to prove that the private health care sector cannot work and therefore you must have a Government-run system would view such an amendment exercise potentially as a step toward improving the health care system.

I simply state to my colleagues while this negotiating is going on, I will certainly support, and do support, a unanimous consent request where Senator KENNEDY and those who support him write the very best proposal they can write to strengthen patients' rights. We have written—and if we come up with better ideas, we will incorporate them—the best bill we can write that we believe achieves those objectives. Let's give Senator KENNEDY and those who support him an up-or-down, free-standing vote, unamended, to put before the Senate his best proposal, and let us vote yea or nay. Then give us an opportunity to put our bill—our best proposal—in front of the Senate and vote yea or nay.

But I am not interested in allowing amendments where one side of the debate can view it as positive to kill off the private sector of medicine in America and whereas those of us who believe that its survival is critical to quality medicine in America would be forever disadvantaged in that debate.

So I want to call on those who have for 6 months said to us: "The No. 1 issue in the country is patients' rights. Give us an opportunity to vote on our bill." I want to call on them to bring their bill to the floor of the Senate and let us vote on it. Let us vote up or down. We will not amend Senator KENNEDY's bill. If he has reached legislative perfection, at least in terms of what he thinks he can pass, then let us vote on it. And then let us vote on our bill.

But I intend to object to any unanimous consent request that would have the effect I've described. I hope that reason will prevail and we will have an up-or-down vote on the two alternatives. Those who want a bill, I do not see how they could view that as being an unfair proposal. It is a proposal that 6 months ago I would think that the minority would have jumped at.

Today, they want the ability to have 20 amendments. They do not want to set a calendar time limit. That process could go on and on and on. I do not have any desire to amend their bill. We want an opportunity to vote on ours. Let the Senate choose. I think it would be the right way to go about it, and the only way we can be successful in the end.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, we are going to have a lot of time to debate health care. I suspect the Senator from Kentucky may want to respond to the Senator.

Mr. FORD. Thirty seconds.

The Senator from Texas said time and time again that we were destroying the medical system. With the AMA and 170 medical organizations in this country for our particular bill, I do not believe there is any indication that we are trying to destroy the medical profession in this country.

Several Senators addressed the Chair.

Mr. GREGG. Reclaiming my time.

Mr. FORD. I said 30 seconds.

Mr. GRAMM. Will the Senator yield?

Mr. GREGG. Did the Senator from Kentucky get his 30 seconds?

The PRESIDING OFFICER. The Senator from Kentucky used 18 seconds.

Mr. GRAMM. Will the Senator yield——

Mr. GREGG. I would like to move on with the bill, to be quite honest with you. I will yield the floor, but I hope we can move to the completion of this bill.

The Senator from Arizona has been waiting, along with the Senator from Utah, to get an amendment completed that we worked on for a few hours here. It would be nice if we could wrap that up. Then, if you want to come back to the health care debate, that is great.

I ask unanimous consent that the next Member to be recognized be the Senator from Arizona.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. I object and suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection to the request?

Mr. HATCH. Could I ask the distinguished Senator from Texas to withhold his objection? This should not——

Mr. GRAMM. Mr. President, I withhold. I withhold my suggestion of the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire has asked for unanimous consent. Is there objection?

Mr. GREGG. I withdraw the unanimous consent request.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield the floor?

Mr. GREGG. I yield the floor.

Mr. HATCH. Will the Senator yield 30 seconds to me?

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I will be 20 seconds. If the Senator has support, if he has a good bill, let us bring it before the Senate and vote on it.

Mr. FORD. In my strategy and not yours.

Mr. GRAMM. If we are going to have a unanimous consent request, we have to have the agreement of the Members. And I am not going to agree to that particular process.

I yield the floor.

Mr. McCAINN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. McCAIN. Mr. President, I certainly was entertained by the exchange. And I know that the Senator from Utah is going to speak right after me. I hope he will have some biblical stories as well. The biblical lesson that I am about to propound has to do with the fact that two well-meaning and well-intentioned Americans can join together and resolve our problems and differences.

Mr. President, earlier today an amendment of mine was accepted that unintentionally the Senator from Utah, the distinguished chairman of the Judiciary Committee, was unaware of. After vigorous discussion, the Senator from Utah and I have agreed, along with the Senator from Vermont, the ranking member of the Judiciary Committee, that we would modify that amendment and that basically what this means is that the cable rates would be held in moratorium until March 31, 1999.

Mr. President, this is a serious issue. The chairman of the Judiciary Committee and I also know that it is serious, and we intend to work together and get this issue resolved so that there is meaningful competition to the rising cable rates in America which have gone up 9 percent last year and 8 percent again this year.

I think we reached an agreement that makes both of us slightly unhappy but I think will move this process along. I look forward to working with him in the weeks ahead, and hopefully by perhaps September we can get an agreement and move forward on this issue.

VITIATION OF VOTE—AMENDMENT NO. 3229

Mr. President, before the Senator from Utah speaks, I ask unanimous consent that the vote on amendment No. 3229 be vitiated.

The vote on amendment (No. 3229) was vitiated.

AMENDMENT NO. 3229, AS MODIFIED

Mr. McCAIN. I further ask unanimous consent that a modification of the amendment which is at the desk be agreed to.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3229), as modified, was agreed to as follows:

At the appropriate place, insert the following:

SEC. . MULTICHANNEL VIDEO PROGRAMMING.

(a) Notwithstanding any other provision of law, the Copyright Office is prohibited from implementing, enforcing, collecting or awarding copyright royalty fees, and no obligation or liability for copyright royalty fees shall accrue pursuant to the decision of the Librarian of Congress on October 27, 1997, which established a royalty fee of $0.27 per subscriber per month for the retransmission of distant broadcast signals by satellite carriers, before March 31, 1999. This shall have no effect on the implementing, enforcing, collecting, or awarding copyright royalty fees pursuant to the royalty fee structure as it exists prior to October 27, 1997.

Mr. McCAIN. I thank the Senator from Utah for his continued cooperation and offer my commitment to work with him and his staff.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my friend and colleague from Arizona for being willing to work out this difficulty. There was, I think, a misunderstanding on this matter. We have reached an acceptable compromise that will encourage us to work together on these issues for the benefit of all of our constituents and the affected industries with deliberate speed. I hope that we can work together to fashion a comprehensive reform of the relevant laws and regulations that will increase the range of options that television viewers will have.

The rates will be rolled back until early next year; that is, until March 31, when we would hope and expect Congress to be able to adopt meaningful comprehensive reform of the issues affecting the satellite industries and their customers.

So, again, I want to thank my colleague for being willing to vitiate the prior vote, being willing to work out this compromise, and I express my desire to work together with him as chairman of the Judiciary Committee, and I believe my colleagues on the Judiciary Committee will as well with him, as chairman of the Commerce Committee, and hopefully we can resolve the matters in the best interests of all Americans—both individuals and affected industries. And, again, I just express my appreciation.

Parliamentary inquiry. Is that modification accepted?

The PRESIDING OFFICER. The amendment was agreed to, as modified.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 3240

(Purpose: To prohibit foreign nationals admitted to the United States under a nonimmigrant visa from possessing a firearm)

Mr. DURBIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 3240.

Mr. DURBIN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. . FIREARMS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d), by striking paragraph (5) and inserting the following:

"(5) who, being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));";

(2) in subsection (g), by striking paragraph (5) and inserting the following:

"(5) who, being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));";

(3) in subsection (s)(3)(B), by striking clause (v) and inserting the following:

"(v) is not an alien who—

"(I) is illegally or unlawfully in the United States; or

"(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));"; and

(4) by inserting after subsection (x) the following:

"(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NONIMMIGRANT VISAS.—

"(1) DEFINITIONS.—In this subsection—

"(A) the term 'alien' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

"(B) the term 'nonimmigrant visa' has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

"(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

"(A) admitted to the United States for lawful hunting or sporting purposes;

"(B) an official representative of a foreign government who is—

"(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

"(ii) en route to or from another country to which that alien is accredited;

"(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

"(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

"(3) WAIVER.—

"(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

"(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

"(ii) the Attorney General approves the petition.

"(B) PETITION.—Each petition under subparagraph (B) shall—

"(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

"(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

"(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

"(i) would be in the interests of justice; and

"(ii) would not jeopardize the public safety.".

Mr. DURBIN. Mr. President, I would like to explain this amendment. It is rather simple, straightforward. It is, again, on the issue of guns. I am hoping now, for the first time today, that we can find some consensus on that issue. And I have spoken to some of my former adversaries, and there may be a chance. But I would like to explain what this amendment does.

Earlier today, we have said in our votes on this floor—this body has said—that when it comes to requiring people who purchase guns in the United States when they purchase a handgun to buy a trigger lock, we voted no, they should not be required to buy a trigger lock. Then we said, if you are going to have a criminal background check when you buy a gun in this country, you do not have to pay for it; other taxpayers have to pay for it; it is free. Those are the two votes so far.

I hope that I am going to broach a subject here where we can find some common ground on the issue of owning guns. Remember with me, for a moment, last year when there was a terrible killing at the Empire State Building. Gun violence in America, unfortunately, is not novel. We read about it every day, and we see it on the news.

But it struck me as odd when I heard about this case because, if you will remember—and I think I have the sequence correctly—a resident of the Nation of Lebanon came to the United States on a nonimmigrant visa, such as a tourist visa. When he arrived in the United States, he visited the State of Florida, which has relatively lax laws in terms of the purchase of firearms. He bought a firearm in Florida, took it up to the Empire State Building, and gunned down several innocent people, other tourists at the Empire State Building.

It struck me as odd that while we enshrine the right of American citizens to own firearms, we apparently have few, if any, ways to check when people come into this country to buy a gun as to whether or not they are citizens of this country.

So in this case, a man from another nation, a tourist, bought a gun and killed innocent Americans. I think that goes too far. I think, frankly, we ought to say that if you come into this country as our guest, not as a citizen of the United States, that we are going to restrict your right to purchase a firearm. You are not a citizen of our country; we have a right to impose such restrictions on you.

So here is what we do: We say to the Immigration and Naturalization Service, send over, through your computers, the names of those who are in this country legally on these visas; we will put them into our background check. If this individual had shown up at a gun store and said, "I want to purchase a gun," they would put his name in the computer. And if he came up as a nonimmigrant visa holder, not a citizen of the United States, they would have said, "No"; and had they said no to this man, several Americans might be alive today.

I don't think that is an unreasonable requirement. In considering this amendment, I should think that people might question whether or not it is our obligation in this Nation, under the Constitution or otherwise, to arm people who come to visit us. I am not sure it is.

Now, we do make exceptions, and I want to make certain that those who read this amendment understand the exceptions. We tried to imagine the exceptions of those coming to the United States on nonimmigrant visas who might need to own a gun for very real and legal purposes.

Here are the exceptions that we included: We said if you are someone who has come to the United States for lawful hunting or sporting hunts—so you have someone who enjoys hunting and can legally do so in the United States, who comes here for that purpose, goes to the far west, wherever it might be, that person is exempt. That person may purchase a gun while here for that purpose.

An official representative of foreign governments—certainly, any head of state brings a security contingent with him and that person may possess a gun.

Those who are credited with the U.S. Government's mission to an international organization; those en route from one country to another; an official of a foreign government or a distinguished foreign visitor, a foreign law enforcement officer.

We try to say these are categories of people which might in the ordinary course of events have a gun, need to purchase a gun, for very legitimate purposes.

Now, what about those who are there on a nonimmigrant visa for a longer period of time? I am willing to concede that some are here for maybe even years legally on nonimmigrant visas and may need a gun at some point. We even put a provision in for that.

A waiver of this requirement—if a person has resided in the United States for 180 days and can provide a statement to our Government from his Embassy or consulate that says he is authorized to acquire a firearm and he doesn't have a criminal record in his home country.

So I think we have created exceptions which will allow those people who are here on nonimmigrant visas, who are not here to commit a crime, an opportunity to purchase or own a firearm. Yet we have said that tourists from any nation who comes in, buys a

firearm, commits an act of terrorism or murder, is not welcome. We are not going to make it easy for them.

That is the amendment which I have offered. I hope that those who are mulling over its provisions will come to the conclusion that it is not an unreasonable suggestion. I hope those who visit our country understand they are welcome. When it comes to purchasing a gun, which may lead to a violent crime, we are at least going to ask some questions. I think the people of America expect us to ask those questions.

I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DURBIN. Has there been a unanimous consent agreement in terms of this pending amendment or any others considered this evening?

Mr. GREGG. No.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

AMENDMENT NO. 3240, AS MODIFIED

Mr. DURBIN. Mr. President, I have sent a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment is so modified.

The amendment (No. 3240), as modified, is as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. ___. FIREARMS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d), by striking paragraph (5) and inserting the following:

"(5) who, being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));";

(2) in subsection (g), by striking paragraph (5) and inserting the following:

"(5) who, being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));";

(3) in subsection (s)(3)(B), by striking clause (v) and inserting the following:

"(v) is not an alien who—

"(I) is illegally or unlawfully in the United States; or

"(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));"; and

(4) by inserting after subsection (x) the following:

"(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NONIMMIGRANT VISAS.—

"(1) DEFINITIONS.—In this subsection—

"(A) the term 'alien' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

"(B) the term 'nonimmigrant visa' has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

"(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

"(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

"(B) an official representative of a foreign government who is—

"(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

"(ii) en route to or from another country to which that alien is accredited;

"(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

"(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

"(3) WAIVER.—

"(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

"(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

"(ii) the Attorney General approves the petition.

"(B) PETITION.—Each petition under subparagraph (B) shall—

"(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

"(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

"(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

"(i) would be in the interests of justice; and

"(ii) would not jeopardize the public safety.".

Mr. DURBIN. Mr. President, I have been working with the Senator from Idaho, and I think we have reached an agreement on this, in which we provide language that says if a person who comes to the United States on a nonimmigrant visa is in possession of a hunting license or permit lawfully issued within the United States, they then would not be covered by the provisions of this law. That is consistent with the original language of the amendment.

At this point, I yield to the Senator from Idaho.

Mr. CRAIG. Mr. President, I appreciate the willingness of the Senator from Illinois to modify his amendment. I think it is necessary and appropriate, and certainly the public understands that hunting is a lawful right and opportunity in this country. Certainly, foreign citizens who are here that go through the legal and necessary steps should be allowed that opportunity, and to acquire a gun for that purpose while here is necessary and fitting.

I agree with the Senator from Illinois that he deals with a very important area of the law. We have seen it misused by aliens in this country. Our second amendment is something that we honor, that many of us feel is a very important right of our citizens under the Constitution. It should not be abused by those who are guests in our country, legally or illegally. I think the Senator from Illinois speaks clearly to that in the amendment. I appreciate his offering it.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I think the Senator from Illinois has proposed a strong amendment here, and it has been strengthened further by the Senator from Idaho.

I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3240), as modified, was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BORDER PATROL AVIATION

Mr. BIDEN. Mr. President, I would ask to engage the Senator from New Hampshire, Mr. GREGG, in a brief colloquy regarding a portion of the report which accompanies the bill, calling on the Border Patrol to examine the potential cost savings and border surveillance capabilities of a variety of types of aircraft. I support the committee's effort to seek more information to improve the cost effectiveness and efficiency of our border surveillance effort—against both illegal immigration and drugs. But, I also believe that we must review all types of aircraft, including both manned and unmanned airships. Is it the Committee's intent that such airships also be considered in the study and report?

Mr. GREGG. I appreciate the Senator's concerns on this subject. The

committee believes that the full range of aircraft options, including airships, should be examined by the Border Patrol to assist our efforts to ensure the most cost-effective and efficient ways to protect our borders from both illegal immigration and the flow of drugs.

Mr. BIDEN. I thank the Senator for his interest in this matter and for his clarification of the committee report.

CONGRESS-BUNDESTAG YOUTH EXCHANGE PROGRAM

Mr. LUGAR. Mr. President, I would like to engage the distinguished chairman of the subcommittee in a brief colloquy on the Congress-Bundestag Youth Exchange Program (CBYX). I would like to hear his thoughts about German-American student exchanges and the reasons why the bill before us does not include any appropriation for these important exchanges.

Let me assert first of all that I am a strong and enthusiastic supporter of the CBYX program that has been in existence now for 15 years. I recall the enthusiasm in the Senate when, in 1983, the late Senator Heinz introduced the bill authorizing this exchange program. Many of us rose to endorse it and the legislation received unanimous support.

The legislation was inspired by the events surrounding the critical decision by the German Government to deploy United States Pershing-II missiles in Germany—a decision which, in my judgment accelerated the end of the Cold War. At the time, it became evident that there were fundamental misunderstandings within Germany of United States intentions and equally shallow perceptions about Germany in the United States.

The German Government felt the need for correcting misperceptions about the United States most acutely and initiated a process to establish and fund a youth exchange program with the United States. The Congress-Bundestag exchange program that emerged from those efforts was not just another bilateral exchange program. Rather, it has become an essential component of American foreign policy. With the imminent expansion of NATO eastward, it takes on an even more important role in promoting understanding between our two countries.

The Congress-Bundestag Youth Exchange program was launched jointly in 1983 by the U.S. Congress and the German Bundestag and has been funded by both governments in roughly equal amounts ever since.

Many of us on both sides of the aisle who were in Congress in 1983 spoke passionately in support of these exchanges. Those of us who follow the program closely and meet with the exchange students believe it is an essential component of American foreign policy.

Apart from expanding awareness of German and American institutions and culture, the international experiences and increased proficiency in language have become valuable assets in the students' continuing education and community life.

One of the unique features of the Congress Bundestag Youth Exchange Program is that the German Government virtually matches our contributions on a dollar-for-dollar basis. They try to match the number of students they send to the United States to those we send Germany. They would like to send many more students. When we increase or decrease our funding, they tend to increase or decrease their funding. Thus, if we zero out or decrease funding for this program, the German Government may do the same. In effect, that would be a double hit and a double calamity for United States-German relations.

Thousands of young people from Germany and from the United States are able to spend a year in the other country, live with host families and learn about one another. Thousands have become young Ambassadors for their country. They have strengthened our mutual interests.

Germany's strategic importance in Europe is self-evident. It enjoys the strongest economy in Europe and has cooperated in expanding both the European Union and NATO toward the East. It is poised to play an even greater role in international peacekeeping, international commerce, and the global economy. Moreover, there are more than 60 million Americans who trace their heritage to German origins, one of the largest, if not the largest, ethnic groups in the United States.

Could I ask the distinguished chairman of the subcommittee what has been the recent funding levels for the Congress-Bundestag Program and if the bill before us eliminates or reduces funding for the Congress-Bundestag program for fiscal year 1999?

Mr. GREGG. Funding for this program was at $2.75 million for several years in the past but it declined to $2.4 million and has been at or below that level in recent years. The current bill does not include any funding for the Congress-Bundestag Program but it does not prohibit any funding either. We suggest in the report language that there are other competing priorities which make it difficult to fund all requests for cultural and educational exchanges.

Mr. LUGAR. It is my understanding that this program is a very high priority of the administration and that the President has publicly stated that he wants to increase funding for the Congress-Bundestag Program in fiscal year 2000 to a level at least $2.8 million—an amount substantially above recent levels.

Mr. GREGG. Yes. The President has announced his intention to request an increase for this program in the year following the current fiscal year. I will look forward to that request.

Mr. LUGAR. I understand the companion House bill includes funding for this exchange program at about $2 million. Therefore, funding for the Congress-Bundestag Youth Exchange program for fiscal year 1999 will be an issue in conference. Is it the chairman's intention to restore funds for the CBYX program in conference?

Mr. GREGG. I would like very much to restore funding for this program—and for other exchanges as well. Unfortunately we are operating under tight budgetary constraints. As the senior Senator from Indiana knows, the number of international exchange programs have grown over the years and that is a reflection of their popularity and importance. Overall appropriations have not kept pace with the growth in the number of programs. The regrettable result of this shrinkage of funds and growth in demand for them means that some programs must be reduced.

But, I very much appreciate the Senator's strong argument in support of the Congress-Bundestag Youth Exchange program, particularly the foreign policy role it plays in strengthening our ties with an important European ally, Germany. I will keep your arguments very much before me when we negotiate with our House counterparts in conference.

Mr. LUGAR. I thank the chairman and appreciate his explanation. My original intention was to introduce an amendment to restore funding for the CBYX program but do not want to burden the managers with a specific earmark. Could the chairman give assurance that he will do all he can to restore funding for these exchanges. If he does, I will withdraw my amendment.

Mr. GREGG. You have made a strong argument on behalf of the program. And I will do my best to adjust existing programs to provide funding for the United States-German exchange program.

Mr. LUGAR. I appreciate your assurances. Mr. President, I would like to made a few additional comments on the Congress-Bundestag Youth Exchange Program.

For the past 15 years, some 11,000 young students from Germany and the United States have participated in these exchanges. German and American families have hosted these students in their homes and communities and formed enduring friendships and nurturing the ability to see each other through the other's eyes. The earliest of these participants are mature adults now and have assumed responsible positions in their communities. I'm impressed that senior members of the German Government, including Chancellor Kohl and the President of the German Bundestag, Rita Sussmuth are personally involved in the program. Many others have invited American

students to work in their offices, invited them into their homes and arranged for specific events on their behalf. Our German counterparts value this program very highly and promote it with enthusiasm.

In the end, we should support this program because it is in our interests to do so. It is one of our smallest international exchange programs but it reaps substantial foreign policy benefits. We should be sending more American students to Germany on this program. The German Government wants to increase the number of students they send here.

I should add that most of the American students selected for this exchange program are juniors or sophomores in high school. The standards are high. To be eligible, a student must have a 3.0 grade point or better and be a citizen or permanent resident of the United States.

Once again, I want to thank the distinguished chairman of the subcommittee. He has a difficult task of balancing growing and competing demands with increasingly sparse resources. I appreciate his understanding and courtesy and look forward to working with him and the committee to restore funding for the Congress-Bundestag Youth Exchange Program (CBYX).

IMPROVING SCHOOL SAFETY AND FIGHTING SCHOOL CRIME

Mr. ROBB. Mr. President, as many of my colleagues are aware, support for education has been at the top of my priorities since I began my career as a public servant.

I've worked for many years, and on several fronts, to strengthen our public schools and universities, and I've focused as well on an essential prerequisite for improving educational opportunities—a safe learning environment. Unfortunately, not all students share the privilege of attending a safe school.

Over the past year, tragic murders at schools across the Nation have chilled parents' hearts. Perhaps even more chilling are figures from a spring 1998 Department of Justice study, which indicates just how many schools, and schoolchildren, are at risk. In the past year, nearly 60 percent of all elementary and secondary schools reported at least one incident of criminal activity to the police. Roughly 20 percent of schools reported six crimes or more. One out of every ten schools reported a serious violent crime during the past year.

Mr. President, crime in school is a double threat—a threat not just to safety and property, but to our entire educational system. Parents should worry about their children dodging homework, not dodging bullets. Teachers should be able to devote their energy to promoting academic achievement, not counseling victims. And students should be focused on their next exam, not on making it safely to the next class.

While the States have the primary responsibility for both education and criminal justice, and the Federal Government cannot give every neighborhood crime-free schools, I believe the Congress should do more. The Federal Government can help by supporting innovative efforts by local communities and law enforcement to improve safety, by sharing insights gained from these efforts with communities across the Nation, and simply by focusing attention on this problem.

During past Congresses, I supported prevention programs to assist local communities, including drug resistance education, school security grants, and the Gun Free School Zones Act. In 1993, I worked to create a Commission on Violence in Schools to study school safety. I've also voted for additional deterrence measures, including adult prosecution of armed juveniles who commit violent crimes, and increased funding for juvenile prisons.

Last fall, I proposed an amendment to permit funds available under the Community Oriented Policing Services Program (COPS) to go to school safety initiatives. COPS funding has been restricted in the past to hiring new police officers. The amendment I proposed, and the Senate adopted, expanded the use of COPS funding to reward innovative crime-reduction efforts by communities and law enforcement, to share knowledge about successful school-safety programs, and to raise public awareness about school crime. Thanks to the support of Senators GREGG AND HOLLINGS, $17.5 million in grants were made available in fiscal year 1998. The grants will be awarded later this fall to communities across the Nation.

This spring, I spoke with Senators HOLLINGS and GREGG and urged them to continue and expand this program in fiscal year 1999, and I am grateful for their generosity and their commitment to the cause. The chair and ranking member provided more than $210 million for a Schools Safety Initiative. Under this initiative, $10 million will support research in technology to improve school safety, such as weapons detection equipment. Another $25 million will fund community efforts to promote nonviolent dispute resolution, to train teachers and parents to recognize troubled children, and to strengthen families.

The bulk of the School Safety Initiative, $175 million, will be administered under the COPS school safety program that I initiated last fall. I believe this funding level is a strong statement to students, parents, teachers, and law enforcement. This program indicates that school safety is a national priority, and I hope schools and communities across the Nation will respond.

A number of schools in Virginia have already taken action. Some have set up anonymous crime tip lines for their students. Police in Richmond work with students to promote peaceful conflict resolution and drug resistance education. Other communities, such as Pulaski County, have actually placed police officers in schools.

One remaining concern I have is the attention to this issue will receive from future Congresses. In my view, the matter of school safety deserves sustained attention, and continuing support from the this body. There are several juvenile justice reform bills pending before the Senate, and I'd like to move forward on legislation in this area this year. Unfortunately, that appears unlikely.

Therefore, I look forward to working with my colleagues next year to schedule a full debate on juvenile justice issues, as a well as to provide continued support for school safety through the appropriations process during conference with the House this year and next.

Mr. GREGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3243

(Purpose: To amend the Federal Rules of Criminal Procedure, relating to counsel for witnesses in grand jury proceedings, and for other purposes)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3243.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title II of the bill, insert the following:

SEC. 2 . GRAND JURY RIGHT TO COUNSEL.

(a) IN GENERAL.—Rule 6 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (d), by inserting "and counsel for that witness (as provided in subdivision (h))" after "under examination"; and

(2) by adding at the end the following:

"(h) COUNSEL FOR GRAND JURY WITNESSES.—

"(1) IN GENERAL.—

"(A) RIGHT OF ASSISTANCE.—Each witness subpoenaed to appear and testify before a grand jury in a district court, or to produce books, papers, documents, or other objects before that grand jury, shall be allowed the assistance of counsel during such time as the witness is questioned in the grand jury room.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. BUMPERS addressed the Chair.

Mr. GREGG. Will the Senator yield for a question?

Mr. BUMPERS. Yes.

Mr. GREGG. We were working on a unanimous consent agreement that would allow a second degree to be offered to the Senator's amendment, which would be reserved to the majority. Does the Senator object to such an option? It would be a relative second degree.

Mr. BUMPERS. I don't know. I need to meditate on that.

Mr. GREGG. That is why we are meditating on the yeas and nays.

Mr. BUMPERS. I noticed there was no prompt response on that side of the aisle to a request for the yeas and nays, so I assumed some sort of cabal was in the works.

Mr. GREGG. We would look forward to a vote on the Senator's amendment, but we do want to reserve the right to a second degree.

Mr. BUMPERS. I am not sure I look forward to voting on a second-degree amendment, but then it may be, if we are going to have a unanimous consent agreement of any kind, it might preclude a second-degree amendment.

Let me think about it.

Mr. GREGG. I thank the Senator.

Mr. BUMPERS. I want to suggest to each Senator that they meditate on this proposition.

The doorbell rings and the Senator's wife answers the door. There is a nicely dressed person, in a suit and tie, standing at the door. He hands her a paper, and she says, "What is this?"

He says, "That's a subpoena."

She says, "What does that mean?"

He says, "That means that the district attorney, the United States attorney wants to question you."

"Well, about what?"

"I don't know."

"What does this paper mean?"

"It means that you don't have any choice. You must go down and appear before the grand jury."

"Well, how long will that take?"

"Well, as a matter of fact, sometimes it takes several days. Some witnesses have been known to have to appear for 5 and 6 and 7 days, different times."

"But I don't know anything. What can I testify to?"

"Ma'am, I'm just a functionary. I have been requested, and it is my official duty to present you with this subpoena. Incidentally, the U.S. attorney also wants you to bring all of your telephone calls and also any other documents or letters you may have in your possession that would relate to anything."

"Well," she says, "Do I get to bring a lawyer with me?"

"Oh, yes, ma'am, you can bring a lawyer."

Then she says, "Well, can my lawyer sit in the grand jury room with me?"

"No, ma'am, I'm afraid not. Your lawyer can sit outside the grand jury room but he can't come in the room with you."

Now, to a lot of people, this is a real story. This is not an Orwellian bad dream. This is what happens to a lot of innocent people in this country on a daily basis. She doesn't have any choice but to show up.

If she had been arrested and charged with a crime, and she was a possible criminal who was about to go on trial and serve jail time if convicted, she would have a constitutional right to a lawyer, or to remain silent. She would not have to tell the U.S. attorney anything. She could remain silent. She could not only remain silent; she would be provided a lawyer if she could not afford one.

How many times has every person in the Senate stood on this floor and said criminals have more rights than ordinary citizens?

In this case, it is true. I just gave you a classic illustration of why it is true. If this woman were arrested by the police, or charged with a crime, they couldn't treat her in such a way. But, because she is an ordinary witness, an innocent citizen, she can be made to go and testify. She can be made to bring any documents the U.S. attorney chooses to make her bring. She can be required to walk in the grand jury room and sit alone on the stand in abject terror because her lawyer is not permitted in the room with her; he must sit outside.

It is true that she can ask for a recess, leave the witness stand and say to the court, say to the U.S. attorney:

"Before I answer that question, I would like to talk to my lawyer."

He says, "OK."

So she goes outside and she asks her lawyer, to whom she has just paid a $5,000 retainer because she is terrified—not because she has done anything wrong—she has just paid this lawyer $5,000. They are people of very modest means. He cannot go in the grand jury room, but she can go out and ask him a question. She is not a lawyer and she is not sophisticated enough to know on what questions should she defer to her lawyer. She could answer the most incriminating question in the world, in all of her legal ignorance, and not know she had just implicated herself.

What if she says to the man who appeared at her door with a subpoena:

"You say you don't know what they want to talk to me about?"

He says, "Well, it's about the parking meter scandal."

"I don't know anything about any parking meter scandal."

"Well, I'm sorry, ma'am."

She says, "If they asked me something and I can't remember it, or if I try to remember and I give them an answer and it turns out to be wrong, then what happens?"

"Oh, then in that case, ma'am, they may charge you with perjury."

Here is a classic case of a criminal justice system that is not working. I heard all these lamentations about human rights in China, but you tell me, how much worse can a situation get, when innocent people every day in this country are called to testify—and, frankly, as good citizens they should be willing to testify—but when they get in the grand jury room with the U.S. attorney, they are subject to his mercy. He can ask them—he can ask this woman, first crack out of the bat, in this investigation of a parking meter scandal:

"Have you been faithful to your husband ever since you got married?" He can do this because there is no requirement of relevancy in the grand jury.

"Well, as a matter of fact, I think that's personal."

"Ma'am, I'm asking you a question. I want an answer. I understand that one of your children is gay; is that true?"

"Well, what's that got to do with anything?"

"Ma'am, I'm asking you the questions. I'm the U.S. attorney here, and I can ask anything I want. Is it true one of your children got picked up one time on a pot charge when he was a senior in high school?"

"What is that relevant to?"

"Ma'am, as I said, I'm asking the questions here. Now, I'm asking you, and you are legally required to answer truthfully."

Senators, I'm going to tell you something. You think this is farfetched? Believe me, believe me, it is not. It happens all the time.

You ask yourself this question: How would you like to be in the grand jury room without a lawyer—nobody—and you ask the U.S. attorney:

"Look, I would like to go outside the room. My lawyer is sitting just outside the door. I would like to talk to him and ask him whether I should answer this question or not."

"You have a right to do that, ma'am. Go right ahead."

She goes out. After awhile, he asks her another one of those silly questions. And she says, "You know, I don't know how to answer that. I need to talk to my lawyer again."

The third time she does that, these grand jurors start nudging each other. "This woman is hiding something. She knows a lot more than she is willing to talk about. Why is she going outside to talk to that lawyer so much if she doesn't have something to hide?"

That is the psychological part of trying lawsuits. I am telling you, I was a trial attorney for 18 years before I became Governor. I have seen prosecuting attorneys, I have seen local district attorneys, I have seen U.S. attorneys, eaten up with political ambition. And when they are eaten up with

political ambition, do you know what they want? All the notches in their belt they can get. They want to be able to boast, "I never failed to get an indictment I asked for."

The chief judge of the State of New York once said, "You can get a grand jury to indict a ham sandwich if you ask them to." I had a U.S. attorney tell me one time, "I have never failed to get an indictment from a grand jury." I can tell you, if he had ever failed to get one, that would be one of the most abysmal failures I have ever heard of, because I know all kinds of U.S. attorneys and DA's all over this country who have been able to get an indictment every time they ask for one. Do you know why? Because there are 23 grand jurors sitting there who know nothing except what the U.S. attorney proposes to tell them, only what the witnesses he decides to call will tell them.

Mr. President, I am not talking as any bleeding-heart liberal. I have defended a few criminals in my life. A couple of them I felt pretty sure were guilty, but the first thing I learned in law school is that this is a nation of laws; everybody is entitled to a lawyer, and to a fair trial.

The grand jury system has gotten so bad that 27 States in this Nation have abolished grand juries. You think about that. The States are always ahead of us in Congress. Mr. President, 27 States have abolished the grand jury system, and 18 States have laws that allow the attorney for a witness to sit in the grand jury room with the witness. Now, what do these states know that we don't know?

My amendment is just about as simple as you can make it. It says one thing, that a witness who has an attorney and wishes that attorney to sit in the grand jury room with them may do so. What is wrong with that? You tell me. Anybody, tell me.

If a U.S. attorney is afraid to ask questions because he doesn't want her attorney to hear, what is objectionable about it? And why should he? Why should a U.S. attorney fear asking any question that he is going to ask later, perhaps, in the courtroom anyway? This is supposed to be a fair fight. Is he afraid of the truth?

Do you know why we have a grand jury system? Because the Federal Government was not to be trusted and the Founding Fathers put the requirement in the Fifth Amendment: We will have a grand jury system. And the reason we cannot abolish it is because it is in the Constitution, and I would not change that. The States are not so fettered, and they are abolishing it right and left because they know that grand jury system is often not fair. It is just short of a Star Chamber proceeding because only one side of the case is heard.

In medieval England people were tried by ordeal—they were thrown into the lake or had their hand dunked in boiling water. If they survived the ordeal, they were innocent. If they didn't, it didn't make any difference. That is what was called a Star Chamber proceeding. That is what people used to go through when they missed church. They were put in the stocks or they were subjected to boiling water or a whole host of other things.

So that is the reason that many of the Founding Fathers came here after being abused and abused and abused in England. Because they were mostly a poor class, and they didn't trust Government. Because they had not trusted the King, they knew the King had all the cards, and they wanted to level the playing field and they wanted it to be a fair fight. I can tell you, we do not have a fair fight now in the grand jury.

So, isn't this just simple justice, to allow a witness to have a lawyer? Is this complicated for anybody listening, that a witness who is not charged with anything should have a right to a lawyer in the courtroom, not sitting outside? Do you think a U.S. attorney would start off asking a Senator's wife if she had been faithful to him all of her life if her attorney was sitting there? I promise you he wouldn't. Do you think he would ask if her children were gay or had ever smoked pot if her lawyer was sitting in the room? Of course, he wouldn't. This is about simple deterrence of misconduct.

I ask those who will oppose this amendment, What is the prohibition now under existing law to keep a U.S. attorney from asking those kinds of abusive questions, and worse? There is none.

I remember one time talking with Senator McGovern when he was a Senator. One of these questions came up about charging everybody with everything and vetting everybody who came through. If you get nominated to an executive position, you have to go through a kind of inquisition. George McGovern said, "I want it on the record right now: I stole a watermelon when I was 12 years old."

I can tell you, what we have right now in the grand jury system is not fair, and every Member of this body knows it. I am not defending criminals. I am not saying give criminals an upper hand. What I am saying is give witnesses the same choices you give a defendant, the criminal, which is the right to the assistance of counsel, as guaranteed in the Sixth Amendment.

Mr. President, I hope everybody understands this issue. I don't want to belabor it. It is the kind of amendment that doesn't need a lot of discussion. But you think about this, I say to Senators, your wife or family member who is as innocent as a newly ordained nun, who never did anything wrong in her life, is going before the grand jury system hardly knowing why she has been called and then subjected to day after day after day of testimony, or even 2 hours of testimony—whatever it is. At least put her on a par with the criminal defendants who are arrested and have to be placed on trial, who have a right to an attorney.

Mr. GREGG. Will the Senator from Arkansas yield for a unanimous consent request?

Mr. BUMPERS. I will be happy to yield.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate proceed to debate the following amendments—one which we are now debating—with votes in relation to the issues to be postponed to occur on Wednesday, July 22, at 9:40 a.m.

I further ask unanimous consent that no second-degree amendments be in order, and that all debate be concluded this evening; that there be 2 minutes for debate for closing remarks prior to each vote in the stacked sequence, with the exception of the vote in relation to the Bumpers amendment, on which there will be 10 minutes for closing remarks. The amendments to be debated are as follows: Moseley-Braun, an Internet prevention amendment; Graham of Florida, sheriff's auction; and Bumpers amendment on grand juries, which we are presently debating.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. In light of this agreement, there will be no further votes this evening, and the next votes will be in a stacked sequence beginning at 9:40 a.m.

Mr. BUMPERS. Mr. President, that is a perfectly fair, legitimate undertaking, and I will not be much longer. Senator LEVIN is here and wishes to speak on the amendment, and any other cosponsors of the amendment who are listening should feel free to come over and speak, if they choose.

The point I was about to make, and I will close on this—is this: The American people are fairly happy right now because the economy is going well. But I can tell you, there is one underlying sentiment in this country that is undeniable, and it is that the vast majority of the people in this country don't think we, who live in this rarefied atmosphere, know what their everyday lives are like, and they are right. They are right.

Here is an opportunity to restore people's confidence in the system. It doesn't happen often. One of the reasons this amendment may not prevail is because in the scheme of things, with 268 million people in this country and probably no more than, what should I say, 10,000, 20,000 at most will appear before grand juries in any given year and answer questions, who cares about 10,000 people out of 268 million? I care. If I didn't, I wouldn't be staying here tonight to offer this amendment.

I first started to object to voting on this in the morning, but the more I thought about it, the more I thought that it might be good. It might be good for Senators to reflect on this overnight and to think about the fact that justice denied to one single soul is an aberration to a free nation.

I sincerely hope people will think about this and think about it in terms of their own personal lives—not some obscure thing you read in the Washington Post every morning or the New York Times—but you think about some of these things happening to people, and ask yourself: How would I feel about that? And, if a member of your family were involved, wouldn't you wish that this amendment was in place as a matter of law?

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been listening to my distinguished colleague from Arkansas and his very literal discussion of the grand jury process. It isn't quite as simple as my colleague is explaining.

The reason we have a grand jury process and the reason we don't allow attorneys in there is because that process is to remain secret. Under rule 6(e) of the Federal rules, people are not allowed to talk about what happens within the grand jury—certainly the prosecutors are not allowed to talk about it. That doesn't mean they have to be totally, meticulously unable to talk about the cases that they are handling. But basic 6(e) grand jury testimony is not permitted to be talked about, and there is a reason for that. There is a reason for not allowing attorneys into the grand jury proceedings.

The distinguished Senator from Arkansas seems to have the opinion that in almost every case, or at least in many cases, prosecutors will act irresponsibly, improperly, will take advantage of witnesses, will abuse the law. And I do not believe that is the case.

But one reason why grand jury proceedings have been basically secretive is because, let us say the prosecution was doing a major investigation of organized crime. You can bet your bottom dollar with every witness who goes before that grand jury they would have the same organized crime attorney or attorney representing organized crime or those organized criminals in that grand jury proceeding. Every one of them would want that attorney there, except those who are blowing the whistle on the criminals for whom the grand jury is being held to begin with.

In other words, it would be almost impossible to ever get a witness to come forward in grand jury proceedings of any consequence involving organized crime, and sometimes not so organized crime, because the minute that person appeared, it would be known who literally was testifying against the people whom the prosecutors were trying to bring the actions against.

So it isn't quite as simple as the distinguished Senator has said, although I share some of his concerns. If there is any evidence that grand jury proceedings have been used to abuse witnesses or have been used to seduce witnesses into incriminating themselves, or have been used to ask questions that are irrelevant, such as some of those suggested by my distinguished colleague, then, yes, I agree with him, something ought to be done to prevent those types of things from happening, and perhaps we should look at this whole area.

On the other hand, we have suggested to him that the way to do this would be, of course, to let the judicial conference look at this and make recommendations and really look at all sides of this issue so we do not go into this half cocked and throw out a system that has served this country well over 200 years just because there are some alleged occasional prosecutors who might abuse the process.

It is not quite as simple as people try to make it seem. The grand jury proceeding has served this country well for well over 200 years. And, yes, some of these issues that are raised are ones that trouble me as well. But before we throw this out and before we decide to allow attorneys in the room, then it seems to me we ought to at least have a thorough study to determine whether throwing it out is the thing to do, whether that is going to really be a better process than what we have today. I don't think it will be.

But it does not take many brains to realize the current grand jury process is one-sided. The prosecutor can present whatever the prosecutor wants. And unscrupulous prosecutors can bring an indictment against almost anybody by just basically asking the grand jury to do it, because there is nobody in there to represent the rights of the accused.

The distinguished Senator does raise some very important issues, but I would prefer that we look at this in a very broad-based study that really looks at the pros, the cons, the good, the bad, and helps us to make a determination here. If, after a study like that, we find that the distinguished Senator is primarily right, and that there are many injustices that occur through grand jury proceedings, then I would be the first to join him in making the changes that he would request here this evening.

But frankly, I think that is the type of thing that should be done, that should be done carefully and deliberately. And we should not throw out 200 years of history and 200 years of grand jury proceedings that have served this country at least ostensibly very well because we are concerned that there may be some abuses of this particular process in some instances.

My experience has been that there are very seldom abuses, that the system works well, that it is a system that can bring indictments against those who deserve indictments brought against them; and especially in the area of organized crime, it is a very useful and worthwhile system.

Having said that, that does not mean that I am ignoring what my distinguished friend and colleague has said or what he believes, because I myself have some concerns, as he does. Personally, I believe that in most instances it is a good thing to give people the right to have their counsel there. And remember, grand jury proceedings can bring down indictments but they cannot convict people.

On the other hand, once the indictment is brought down, that amounts to a criminal defense that must be waged in almost every case. So I hope that I can talk my colleague into having a major, major review and study of this rather than doing something that literally throws out the system or at least changes the system dramatically in such a way that might have very detrimental effects in our getting to the bottom of organized crime, to the bottom of organized criminal conduct with regard to drugs, to the bottom of criminal activity in general where witnesses might be intimidated or afraid to even appear before grand juries.

The more we do this, I think the more we are going to find that some of those concerns may outweigh some of the concerns that the distinguished Senator has, because I do not believe that you can point to many instances as a whole—as a whole—where the feelings or complaints of the distinguished Senator from Arkansas are actually fulfilled.

Currently, all witnesses may leave the grand jury proceeding or grand jury room to consult with their attorneys anytime they want. Now the Senator makes a good point when he says, How is that person going to know whether they are incriminating themselves if they are not skilled in the law, if you have a skillful grand jury prosecutor in there asking questions? And that is a tough question to answer.

But the fact of the matter is that if they have an attorney to begin with, that attorney is going to say, "Don't answer anything unless you talk to me, so tell them after each question you want to come out and talk to me." That has been my experience where you have attorneys who are concerned about their clients going in before the grand jury. And there is a way to be

represented by an attorney to not say one word or to answer one question without continuously going out and discussing it with your attorney. So there is a protection.

The difference is that, if I am correct—and I believe I am—there are instances where the grand jury proceeding works better than any other system we have ever had, especially in the area of organized crime. I would be very hesitant to throw out that system without the study by those who are experts in this field and those who really can make a difference in determining just what is right and what is wrong here.

But having said that, I have raised these concerns. I hope my colleague will consider having a study. I would join with him in that. We can place a limited period of time on it, and if that study proves to augment his feelings and proves his thesis here, then I may very well join with him in making the changes that he would like to make here today.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3243, AS MODIFIED

Mr. BUMPERS. I ask unanimous consent that I be permitted to send a modification to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place in title II of the bill, insert the following:

SEC. 2 . GRAND JURY DUE PROCESS.

(a) IN GENERAL.—Rule 6 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (d), by inserting "and counsel for that witness (as provided in subdivision (h))" after "under examination"; and

(2) by adding at the end the following:

"(h) COUNSEL FOR GRAND JURY WITNESSES.—

"(1) IN GENERAL.—

"(A) RIGHT OF ASSISTANCE.—Each witness subpoenaed to appear and testify before a grand jury in a district court, or to produce books, papers, documents, or other objects before that grand jury, shall be allowed the assistance of counsel during such time as the witness is questioned in the grand jury room.

"(2) POWERS AND DUTIES OF COUNSEL.—A counsel retained by or appointed for a witness under paragraph (1)—

"(A) shall be allowed to be present in the grand jury room only during the questioning of the witness and only to advise the witness;

"(B) shall not be permitted to address the attorney for the government or any grand juror, or otherwise participate in the proceedings before the grand jury; and

"(C) shall not represent more than 1 client in a grand jury proceeding, if the exercise of the independent judgment of the counsel on behalf of 1 or both clients will be, or is likely to be, adversely affected by the representation of another client."

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I would like to say a few things about grand juries. I spent 15 years as a Federal prosecutor working with grand juries on a regular basis. And people say, "Oh, it's a secret proceeding." Well, would you rather have your witnesses have to go and testify in open court?

You see, the purpose of a grand jury is simply to determine whether there is probable cause to believe a crime has been committed and whether the defendant probably committed it, to set that case for trial. It is a protection. Some say, "Well, just let the prosecutors indict and eliminate the grand jury because the grand jury will indict a ham sandwich." I heard that here today. Grand juries will not indict a ham sandwich.

You have to present evidence to them sufficient for them to understand the charge; and the evidence that is presented is before they will return an indictment and set the case for trial. At trial, the burden of proof is not "probably committed a crime"; at trial the burden of proof is "beyond a reasonable doubt"; to a moral certainty sometimes the judge charges the jury. So that is where the trial takes place.

Now, I recall a line by Justice Macklin Fleming in California. He said, "Perfect justice is not achievable in this life. In the pursuit of perfect justice, we destroy what justice is achievable."

Well, I just say that an obsession with everything becoming more and more complicated is not the history of our Nation and its criminal law. The founders of our country realized you needed a trial and that people who are accused of crimes ought to have a chance to present their defense fully before a jury of 12 citizens, with their lawyer there to argue, debate, object, and do everything possible to defend that client in that trial, but there ought to be a vehicle to decide whether a case should go forward. They decided it was better for the defendant and for the witnesses when a charge is brought by virtue of a grand jury investigation before citizens of the community, if the testimony is taken in secret, so that if the evidence is not sufficient, the public may never even know that the individual was under investigation and his reputation would not be stained.

I submit to you that sometimes grand juries will not indict. And also, in the course of an investigation, a prosecutor may discover, as his witnesses are called and put under oath, that the good case he thought he might have had was not sufficient. Many times I have pulled a case after presenting evidence before a grand jury because I was not confident, and the grand jury wasn't confident, that there was enough evidence to proceed to indictment. Sometimes I presented grand jury indictments to a grand jury and thought there was evidence to indict and a grand jury declined to do so. That is the power and privilege they have been given under our laws in this country.

Based on my experience, the grand jury system certainly is working. It has served us well for 200 years. I think we ought not to, this late night, without any debate or without any analysis or without any hearings, alter this historic principle, which I believe protects citizens from embarrassment as well as unfounded charges.

I have to suggest and note for the Record, Mr. President, that the Department of Justice strongly opposes this Bumpers amendment. They don't think it is the way we ought to be going now. I share that feeling, and that shows that both I, as a Republican Senator, and the Department of Justice agree on this. I think we are making a big mistake to go forward at this time without having considered precisely what we are doing.

There are a number of important reasons. The chairman of the Judiciary Committee has stated quite a number of those in his excellent legal way, demonstrating his legal skill and analysis of important issues that come before us. He has made that point. I will not take any more time on it. I feel very, very strongly about this issue. I think it would be a colossal error for this body, without any hearings, to change this historic principle, because I will tell you, it will tie the grand jury in knots. You will have another adversarial hearing. You will have two trials instead of one. It will not further the ascertainment of truth, which is the purpose and nature of a grand jury.

I know others need to talk, Mr. President. I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I support the amendment of the Senator from Arkansas. It embodies a historical principle that has been embedded in most of our psyches and consciousness, which is that an individual has a right to counsel—particularly an individual involved in the criminal justice system has a right to counsel.

Our good friend from Utah says, well, someone appearing before a grand jury can leave the room and get counsel. Indeed, he knows of cases, as do I, where somebody who is in front of a grand jury leaves the room after every question to go outside the door and talk to an attorney.

What is the common sense of requiring somebody who is entitled to counsel not to be able to get that counsel inside the grand jury room? What is the common sense of forcing somebody in front of the jury to leave at the end of each question—leave the grand jury

room to go talk to his or her attorney? How does that meet the ends of either common sense or justice—to force that rigmarole, that process, when we come to something as fundamental and basic as the right to counsel?

I don't think anyone here questions that there is a right to counsel under our Constitution. The question is, Why not then permit that right to be exercised inside the grand jury room? Why not permit the advice to be given to somebody inside the grand jury room, rather than to force that person at the end of each question to say, "Excuse me, I want to go outside the grand jury room to consult with my counsel"?

The only argument that I have heard against permitting that is that, somehow or other, that would tie a grand jury in knots, as our good friend from Alabama just said. But under this amendment, that is not possible, because under this amendment, as modified, it carries out the original language of this amendment, which says that, "A counsel for a witness shall be allowed to be present in the grand jury room only during the questioning of the witness and only to advise the witness, and shall not be permitted to address the attorney for the government, or any grand juror, or otherwise participate in the proceedings before the grand jury."

That is it. This amendment would only permit the attorney, which every person under this Constitution has a right to at least hire, to give advice to a citizen inside the grand jury room instead of forcing that person to leave each time. I think it is a modest amendment. It is a modest amendment because it makes sure that we will not tie up a grand jury in knots. It is a modest amendment because it only says that what we know is right, that someone ought to have a right to counsel when they become involved in the criminal justice system—something that we know is right and something that we know is guaranteed, which is the right to counsel, to be exercised in a sensible way, in a way that doesn't undercut and diminish that very right.

To be forced to leave the grand jury room after each question, in front of that grand jury, it seems to me, undermines the very right to counsel which is guaranteed in the Constitution. But, at a minimum, we, it seems to me, as people who want to defend this Constitution, should say, if there is a right—and there is one—that it ought to be exercisable in a commonsense way.

In 90 percent of the grand jury proceedings, the witnesses are law enforcement officers or other governmental officials who are not likely even to have an attorney or want an attorney. But in those other 10 percent of the cases, it seems to me only fair, only common sense, to avoid the absurdity of making a witness leave the grand jury room after every question in order to exercise a constitutional right to the advice of counsel.

I want to close by emphasizing the words of this amendment, because I think they are very important: "The counsel that a witness is allowed to have in the grand jury room under this amendment is present only during the questioning of the witness and"—these are the key words—"only to advise the witness and not to address the attorney for the government or address any grand juror, or to otherwise participate in the proceedings before the grand jury."

Many of our States allow the attorney to be inside of the grand jury room. Some States do, some States don't. But we have to make up our own minds as to what makes the most sense in this Federal system. It seems to me the most fundamental form of common sense. Forcing a person to get up, walk through the door, and leave the room to talk to someone, I believe, diminishes and undermines the very fundamental right that people have to the advice of counsel.

So there is no tying up in knots in this amendment.

This amendment precludes any possibility that an attorney inside the grand jury room will address the court, will address the grand jurors, will address the prosecutor. All that is permitted under this amendment, and all that is required under this amendment, is that the counsel for the witness be allowed to be present in the grand jury room, and only to advise his or her client.

I want to commend the Senator from Arkansas for his extraordinary courage and, as always, his eloquence in presenting a case.

I think that if we will all think about this basic right overnight, hopefully the majority of this body will do what at least a number of States have done, and that is to permit the attorney to be inside the grand jury room solely for the purpose of advising the witness.

I thank the good Senator for his leadership.

TECHNICAL ASSISTANCE FUNDING

Mr. STEVENS. Mr. President, one of the most significant economic problems facing Alaska is the underdevelopment of the business sector in our rural areas. Alaska's vast size, lack of highway infrastructure, and numerous small, remote communities present unique problems requiring unique solutions. If we want to empower people to move from assistance to self-sufficiency we have to grow small businesses in rural Alaska. During the conference on the Commerce, Justice and State appropriations bill, I will ask the conferees to address these issues.

Specifically, my State is suffering from an acute shortage of technical assistance funding to provide training and other services specific to rural needs. This is a need that can be satisfied under SBA's 7(j) program. Additionally, I am informed that regulations promulgated in 1995 have virtually eliminated all small business lending by banks and other financial institutions in Alaska under SBA's 7(a) lending program. Before 1995, the 7(a) program provided critical financing in rural Alaska, and I intend to explore ways to make the program viable once again in Alaska. Finally, Alaska's size and remoteness will require SBA to adopt high-tech solutions to facilitate service delivery. I will seek to create an electronic assistance center within the SBA specifically designed to provide Internet connectivity, outreach and training to rural areas specifically in Alaska.

I look forward to working with Senator GREGG and his staff and others on this issue. It will be within the scope of the conference, I believe.

IDAHO'S VERY HIGH PERFORMANCE BACKBONE NETWORK SYSTEM

Mr. KEMPTHORNE. Mr. President, I rise today to discuss Idaho's Very High Performance Backbone Network system (vBNS).

The State of Idaho is in a strategic position to increase its economic base by strengthening collaboration on research and development projects between the state's universities, state government and business and industry. The U of I was approved, pursuant to a July 31, 1997, submission, for connection to the National Science Foundation's very high performance Backbone Network Service (vBNS). The proposed statewide network would connect the University of Idaho with Idaho State University, Boise State University, state government and industrial partners such as Micron and Hewlett-Packard. For appropriate research purposes, this Intranet could connect through the UI to the vBNS. The Intranet could also be used for distance learning, conferencing, collaborative and other related purposes.

With an Idaho Intranet, Idaho educators will have access to the next generation of teaching/learning tools and materials available under Internet2 (I2), to be used for K–12 and higher education. It will support continuing professorial education, as well as industry workforce development, training and re-training.

With the Idaho Intranet, Idaho businesses will be able to take advantage of the advanced networking capabilities that is the goal of the I2 program. The Intranet would provide a tremendous opportunity to strengthen Idaho's rural economic base. The state's businesses will have access to ground floor participation in the next level of internet

commerce. Abilene and vBNS will provide access to early product development, testing and market entry. Access to virtual conferencing would give businesses like Jerome Cheese Company in Jerome, Idaho, the opportunity to be in "real-time" video contact with its customers in Tokyo, Japan.

Also, the Idaho Intranet will help telemedicine become a reality, improving rural healthcare and helping to address the shortage of doctors in rural Idaho. Idaho ranks last in the nation in numbers of doctors serving rural population healthcare needs—the national average is 93 physicians per 100,000 people. Idaho stands at 63 per 100,000, a third less than the national average, according to a recent study. We must change that and the Intranet will help.

With this funding, the state's schools, colleges and businesses will have access to the I2 to test new products and materials. The UI WWAMI program, for example, is developing an advanced web site with videos of animal anatomy that will allow students to learn about anatomy without using live animals. Current internet technology is not adequate to handle the amount of information placed on the site, but I2 access will make it a viable educational tool available around the state.

The result of an Idaho Intranet will be not only research and learning opportunities, but job creation and business competitiveness for the state of Idaho, and improved quality of life for the people of Idaho. It is for this reason, Mr. President, that I ask for the Senate's support for this project.

IDAHO INTRANET

Mr. KEMPTHORNE. Mr. President, I would like to ask the distinguished floor manager of the bill a question. Potentially, one of the most important programs funded under the Commerce, State and Justice appropriations bill is the Information Infrastructure Grants program. This grants program recognizes the need for assistance to ensure that the American public has full access to and benefits from the technological advances that are taking place in telecommunications and networking. Certainly, the new universal service provisions will make many contributions to the K–12 education community, the library community and the health care community. But, there are also a number of other telecommunications and networking activities which could be of particular benefit, especially in some of the more rural states, such as mine.

In my home State of Idaho, for example, the University of Idaho recently was awarded a vBNS high speed connections grant by the National Science Foundation and accepted an invitation to participate in the Internet2 program. This will give our university researchers access to databases throughout the nation and world, allow for remote use of scientific instruments and set the stage for many new collaborations. The UI has proposed establishing an Idaho Intranet to ensure that the people of rural Idaho will be able to benefit from the resulting access to education, medical information, and business opportunities, which are anticipated as a result of the advanced networking capacity.

I believe the distinguished floor manager and his subcommittee have reviewed the information infrastructure grants program in some detail and believe it has a particular role to play in our telecommunications and networking efforts.

Mr. GREGG. Yes, that is true. In fact, in the report, the Committee identified several projects in rural states around the country and encouraged the NTIA to give particular attention to these requests for funding assistance under the IIG program.

Mr. KEMPTHORNE. Mr. Speaker, the UI's proposal would give rural Idahoans, who must deal with the lowest physician to patient ratio in the nation, access to better health care. It would give my state's rural economy a boost with real-time access to its customers. It would provide key communications links between the state's education institutions, businesses and state governments. Would you agree that the University of Idaho's proposal, to establish an Idaho Intranet and provide access to the benefits of the information and technology to be available under programs such as the vBNS and Abilene, is consistent with the Committee's proposals under the Information Infrastructure Grants program?

Mr. GREGG. Yes, I would agree that the NTIA should give the same consideration to the UI's proposal as to the listed proposals.

COORDINATED DRUG STRATEGY

Mr. HATCH. Mr. President, I would ask to engage the Senator from New Hampshire, Mr. GREGG, and the Senator from Delaware, Mr. BIDEN, in a brief colloquy regarding a portion of the report which accompanies the bill, directing the Attorney General to develop a 5-year interdepartmental drug control strategy. Both Senator BIDEN and I believe that this provision may be misinterpreted, and I request the Senator's assistance in providing some clarification. As a general matter, I have long believed that an effective national drug strategy can best be developed and implemented if we have one responsible official charged with that duty.

Mr. BIDEN. I agree. And, as both my colleagues know, the Office of National Drug Control Policy (ONDCP) was established by Congress in 1988 for precisely the purpose of coordinating the federal government's anti-drug program.

Mr. HATCH. That is true, but the report language seems to suggest that the Attorney General assume some of these responsibilities. Is this how the Committee meant for its guidance to be interpreted?

Mr. GREGG. I appreciate both Senators' concerns on this subject. Although I see how it might be possible to read this into the Committee's Report, this is not the Committee's intent. The Department of Justice, like all Executive Agencies, is to develop a meaningful strategic plan and performance measures under the Government Performance and Results Act (GPRA). In so doing, the Committee wants to be certain that these GPRA efforts are consistent with the National Drug Control Strategy and the ONDCP's Performance Measures of Effectiveness System (PME). The Department of Justice must demonstrate how its own drug programs contribute to the achievement of outcomes articulated in the ONDCP's PME system. To ensure this, the Attorney General must work closely with ONDCP on the further implementation of the National Drug Control Strategy and PME system, particularly by linking its drug control budget resources to the outcomes articulated by the PME system. The Justice Department should also consult with other departments with expertise in particular drug control areas, to the extent that it needs assistance in meeting PME system goals.

Mr. HATCH. As the sponsor, along with the Senator from Delaware, of legislation pending on the floor which would reauthorize the Office of National Drug Control Policy, and maintain its duty to formulate and implement the National Drug Control Strategy and Performance Measures of Effectiveness System, I agree that the Department of Justice should assist ONDCP in these important tasks.

Mr. BIDEN. I concur.

Mr. HATCH. So, if I correctly understand the Senator from New Hampshire, it is not then the Committee's intent to place the Attorney General in charge of formulating the National Drug Control Strategy?

Mr. GREGG. No, quite the contrary. ONDCP is to continue in its important work, and the Department of Justice is to provide ONDCP with such assistance as it may need to develop and implement the National Drug Control Strategy and the Performance Measures of Effectiveness System.

Mr. BIDEN. I thank the Senator for clarifying the Committee's intent on this important issue.

Mr. HATCH. I also thank the Senator from New Hampshire for addressing my concerns on this issue.

GRAVEYARD OF THE ATLANTIC MUSEUM

Mr. FAIRCLOTH. I wish to enter into a colloquy with Senator GREGG in order to clarify a spending item in the pending Commerce, Justice, State Appropriations bill.

I commend the Chairman on this bill, and for his attention to providing funding to the Graveyard of the Atlantic Museum, a public, nonprofit, educational institution, designed for Hatteras Island, one of North Carolina's Outer Bank islands. The Museum is dedicated to the preservation, advancement and presentation of the maritime history and shipwrecks of the Outer Banks, from 1524 until the present.

Over three million tourists visit the Outer Banks each year, the vast majority of them interstate visitors. It is expected that approximately 100,000 tourists would visit the Museum, thus paying the full cost of running it, since a modest fee would be charged.

The Museum has received federal, state, local and private funding in the past. Earlier this decade, Congress appropriated $800,000 from NOAA's construction budget towards this project.

I wish to clarify that the bill's provision of $1,500,000 from NOAA's facilities budget to the "Outer Banks Community Foundation on the condition that these funds are matched by a non-Federal source" is intended solely to be passed through to the Museum.

Mr. GREGG. That is correct, and I appreciate my colleague from North Carolina bringing this matter to my attention. I look forward to working with him until this worthy project is completed.

Mr. BENNETT. Mr. President, the distinguished Chairman is aware of the importance of weather forecasting support for the 2002 Winter Olympics in Salt Lake City. I appreciate the continued support of the Committee with these important preparations for the 2002 Winter Olympics. Millions of spectators will gather in mountain venues. Obviously, accurate and timely weather forecasting support is critical to ensure the safety of both the spectators and the athletes. As you know, the Committee directs the National Weather Service to provide support to the NOAA Cooperative Institute at the University of Utah. It is my understanding that the committee expects the National Weather Service to work with the Cooperative Institute to develop a plan and budget which will help ensure public safety and assist with the operations of the Games. The 2002 Winter Games represents an excellent opportunity for the National Weather Service and the Cooperative Institute to work with private meteorological firms and federal, state, and local agencies to provide accurate weather forecasting for the Games.

Mr. GREGG. The Senator from Utah is correct in his understanding. The Committee appreciates the importance of the involvement of the National Weather Service in preparing for the 2002 Winter Olympic Games.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3244

(Purpose: To amend section 40102 of title 49, United States Code, to modify the definition of the term "public aircraft.")

Mr. GRAHAM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the Bumpers amendment will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] for himself and Mr. DEWINE, proposes an amendment numbered 3244.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title II, insert the following:

SEC. 2 . PUBLIC AIRCRAFT.

The flush sentence following subparagraph (B)(ii) of section 40102(37) of title 49, United States Code, is amended by striking "if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat" and inserting "if the operation is conducted for law enforcement, search and rescue, or responding to an imminent threat to property or natural resources".

Mr. GRAHAM. Mr. President, this evening I rise to offer an amendment with my distinguished colleague, Senator DEWINE. This amendment is intended to assist law enforcement in doing a better job of protecting our citizens and the public safety.

The background of this amendment goes back to 1994. Congress made what I think was an error when it passed Public Law 103–411. Under this law, aircraft belonging to law enforcement agencies are considered to be "commercial" if costs incurred from flying missions to support neighboring jurisdictions are reimbursed.

Unfortunately, this law has placed unnecessary restrictions and costly burdens on Government agencies which operate public aircraft, particularly law enforcement agencies. The law restricts those agencies from using their aircraft resources in assistance of Government agencies and severely limits their ability to recover costs from those agencies which they are assisting. This law even limits the ability of neighboring jurisdictions to enter into mutual aid agreements.

Let me give a typical example of how the current law is operating. In my State of Florida, it is not uncommon to have one medium-sized county which is surrounded by a number of smaller jurisdictions. That medium-sized county has the capability to make an application and secure surplus Government property, frequently a helicopter. That helicopter is used in a variety of public safety and law enforcement activities, often under the jurisdiction of the local sheriff. It may be that one of those smaller counties has a need for a helicopter or other aviation support.

An example of that is, in the northern part of our State we have had instances in which locally grown marijuana has become a serious law enforcement problem. In order to identify that marijuana and effectively eradicate it, the helicopter is an enormous law enforcement asset. Yet, under the current law, if the sheriff from that smaller community wishes to contract, either on an individual case basis or through a mutual aid agreement, with that medium-sized county to get a certain number of hours of utilization of the helicopter and they agree to reimburse the medium-sized county for the cost of that operation, they are in violation of the conditions under which the medium-sized county secured the helicopter in the first place and sanctions might be imposed upon the medium-sized county's sheriff and their capacity to provide effective law enforcement for their smaller neighboring communities.

At the very time when law enforcement faces the growing sophistication and organization of criminals, the Federal Government should not be placing increased mandates on our law enforcement officials. Today, law enforcement officials are forced to call around and check the availability of a private pilot and commercial aircraft before sending out the helicopter of that medium-sized county. Only if no one is available can law enforcement officials respond to the scene.

Under this amendment, public agencies would be permitted to recover costs incurred by operating aircraft to assist other jurisdictions for the purposes of law enforcement, search and rescue, or imminent threat to property or natural resources.

I might say, we just have had a dramatic example of that threat to property or natural resources in the number of wildfires we have experienced across our State, many of them occurring in precisely these smaller counties that are limited in their capability to respond.

Mr. President, law enforcement organizations are strongly supporting this amendment. This legislation has been endorsed by the National Sheriffs Association, the Airborne Law Enforcement Association, the International Association of Chiefs of Police, the Florida Sheriffs Association, and the California State Sheriffs Association.

Some months ago, sheriffs from throughout the country contacted my office seeking help. From my home State of Florida, I have heard from Sheriff Stephen M. Oelrich of Alachua County. Sheriff Oelrich stated, "Public Law 103–411 restricts the ability of a law enforcement aviation unit to assist

Government jurisdictions or other governmental agencies. Instead, it mandates that a local government must first turn to a costly private operator for air service."

This is by no means a problem in my State of Florida alone. I have heard this from sheriffs across the country. Specifically, we have a resolution from the sheriffs of California.

In the words of Sheriff Larry Carpenter of Ventura County CA, Public Law 103–411 has had "a chilling effect on the ability of local governments to provide safe, cost-effective and professional air support capabilities to the very citizens we serve." Let me further quote from an article that Sheriff Carpenter wrote in the Summer 1996 issue of California Sheriff:

The issue of "compensation" fuels this issue to a large degree. According to the FAA interpretation of this law, a sheriff cannot simply recover costs for flying a governmental mission . . . which is "outside a common treasury." This flies in the face of mutual aid agreements between public safety agencies. For example, let's say the Santa Barbara Sheriff's Department, which has no aviation unit, contacts my aviation unit and requests our helicopter fly an observation and surveillance flight of a suspected drug lab which their narcotics and SWAT teams plan to raid in a few days. We fly the mission, undoubtedly with the Santa Barbara deputy sheriff on board, and charge Santa Barbara County only our cost. There is no profit involved. Obviously, this is a sensitive law enforcement mission. Public Law 103–411 says we can no longer do this. Instead, a private operator would need to be contracted at a higher cost to taxpayers.

This is only common sense that instead of restricting the ability of local law enforcement agencies to assist each other, we should be facilitating their ability to serve the public good in as efficient and economical manner as possible.

I urge the adoption of this amendment.

Mr. President, I ask unanimous consent that support from the California State Sheriffs' Association, from the Western States Sheriffs' Association, from the Airborne Law Enforcement Association, from the National Sheriffs' Association, and from the Florida Sheriffs Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the California State Sheriffs' Association has many members who manage public service aviation operations; and

Whereas, Sheriffs' Aviation operations are critical to their ability to provide life-saving service to their constituents; and

Whereas, in 1994 Congress passed and the President signed Public Law 103–411, which severely restricted Sheriffs' ability to effectively utilize their aircraft in their mission; and

Whereas, the ostensible purpose for enactment of Public Law 103–411 was the promotion of aviation safety and that Public Law 103–411 accomplished no appreciable aviation safety purpose; and

Whereas, restrictions on the sharing of aviation resources result in reduced public safety and are poor fiscal and public policy; and

Whereas, the California State Sheriffs' Association, in cooperation with the National Sheriffs' Association, the International Association of Chiefs of Police, the Western State Sheriffs' Association, the National Association of State Foresters, the Airborne Law Enforcement Association, and many other State Sheriffs' Associations support amendments to Public Law 103–411 to correct the law's deficiencies; and

Whereas, Representative Elton Gallegly of California has sponsored a bill in Congress and that bill is H.R. 1521, the Public Services Aviation Act of 1997, now therefore; be it

Resolved, That the California State Sheriffs' Association supports the passage and enactment of H.R. 1521, the Public Services Aviation Act of 1997 or its equivalent; and be it also further

Resolved, That the California State Sheriffs' Association executive director or her designee be authorized to transmit a copy of this resolution to all interested parties including, but not limited to California's congressional delegation, House Speaker Newt Gingrich, Senate Leader Trent Lott and the Members of the House Committee on Transportation and Infrastructure.

RESOLUTION

The Western States Sheriffs' Association represents over 200 Sheriffs of the eleven western states. This association exists to promote the professionalism and dedication of law enforcement and works to ensure that the public we serve receives the best in public safety services.

Public Law 103–311 became law in April of 1995. This measure has negatively impacted may publicly operated aviation units around the United States. For years, these units have provided safe, effective and life-saving services to the public.

Public Law 103–411 sought to increase the level of regulation among aviation units which operate surplus military aircraft. Public Law 103–411 fails to enhance safety regulations in any significant way. The regulations now in place serve only to increase the marketplace of commercial aviation operators who have chosen to conduct government business. Profit has been prioritized over public safety.

The Western States Sheriff's Association (WSSA) has recognized that Public Law 103–411, and the interpretation of this law by the Federal Aviation Administration, are not in the best interests of the American public. Further, it is recognized that several public safety aviation associations have formed task groups, networked, and made all efforts at initiating regulatory reform that is effective and meets the needs of the FAA in safety reporting and regulation.

The Western States Sheriffs' Association resolves that Public Law 103–411 is in need of serious review and/or immediate repeal. It is the view of the WSSA that the specific legislative relief suggested by the Aviation Committee of the National Sheriff's Association provides the most realistic solution to this issue.

Aviation public safety members and representatives remain eager to work with any group to enhance the fair regulation and safety of publicly operated aviation units, while at the same time ensuring the legitimate duties of government to provide the most effective, cost efficient and professional aviation services to the public.

Therefore be it resolved, This 30th day of November, 1995, that the Western States Sheriffs' Association at their annual meeting in Mesquite, Nevada go on record in support of legislation that would modify Public Law 183–411 as set forth in this Resolution or to repeal the law in its entirety.

RESOLUTION

Whereas, the Airborne Law Enforcement Association has as a majority of its members persons who are employed in all aspects of law enforcement aviation operations; and

Whereas, those law enforcement aviation operations are a critically essential component of modern law enforcement, especially as they relate to reducing crime, protecting and saving lives, and apprehending dangerous criminals; and

Whereas, in 1994 the United States Congress passed and the President signed Public Law 103–411, severely restricting United States law enforcement's ability to effectively utilize aircraft in legitimate law enforcement missions; and

Whereas, the stated purpose for enactment of P.L. 103–411 was the promotion of aviation safety and P.L. 103–411 accomplished no appreciable aviation safety purpose; and

Whereas, restrictions on the sharing of aviation resources imposed by P.L. 103–411 has resulted in reduced public safety and is poor fiscal and public policy; and

Whereas, the Airborne Law Enforcement Association, in cooperation with the International Association of Chiefs of Police, the National Sheriffs' Association and many other similar associations, supports legislation which would correct the deficiencies of P.L. 103–411; and

Whereas, Representative Elton Gallegly of California has sponsored a bill in Congress and that bill is H.R. 1521, the Public Services Aviation Act of 1997; and

Whereas, at its Annual Meeting on July 19, 1997, the ALEA general membership by unanimous vote authorized the Board of Directors to issue a Resolution in support of H.R. 1521: Therefore be it:

Resolved, That the Airborne Law Enforcement Association supports passage and enactment of H.R. 1521, the Public Services Aviation Act of 1997; and be it:

Resolved, That the Airborne Law Enforcement Association, failing passage and enactment of H.R. 1521, the Public Service Aviation Act of 1997, supports passage and enactment of legislation equivalent to H.R. 1521, the Public Services Aviation Act of 1997; and be it:

Resolved, That the Executive Director is authorized to transmit a copy of this resolution to all interested parties including, but not limited to, Members of the United States House of Representatives and Members of the United States Senate.

RESOLUTION

Whereas, the National Sheriffs' Association has many members who manage public service aviation operations; and

Whereas, sheriffs' aviation operations are critical to their ability to provide life-saving service to their constituents; and

Whereas, in 1994 Congress passed and the President signed P.L. 103–411, which severely restricted sheriffs' ability to effectively utilize their aircraft in their mission; and

Whereas, the ostensible purpose for enactments of P.L. 103–411 was the promotion of aviation safety and P.L. 103–411 accomplishment no appreciable aviation safety purpose; and

Whereas, restrictions on the sharing of aviation resources result in reduced public safety, and are poor fiscal and public policy; and

Whereas, the National Sheriffs' Association at San Antonio, Texas passed resolution 1995–13 strongly opposing the Independent Safety Board Act of 1994, now designated P.L. 103–411; and

Whereas, the National Sheriffs' Association, in cooperation with the International Association of Chiefs of Police, the Airborne Law Enforcement Association, the National Association of State Foresters, the Western States Sheriffs' Association, and many other state sheriffs' associations, supports amendments to P.L. 103–411 to correct the law's deficiencies; and

Whereas, Representative Elton Gallegly of California has sponsored a bill in Congress and that bill is H.R. 1521, the Public Services Aviation Act of 1997; and therefore, be it

Resolved, That the National Sheriffs' Association supports passage and enactment of H.R. 1521, the Public Services Aviation Act of 1997 or its equivalent; and therefore, be it further

Resolved, That the NSA Executive Director or his designee be authorized to transmit a copy of this resolution to all interested parties including, but not limited to, Members of the United States House of Representatives and Members of the United States Senate.

FLORIDA SHERIFFS ASSOCIATION,
Tallahassee, FL, May 28, 1998.

Hon. BOB GRAHAM,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRAHAM: The purpose of this correspondence is to thank you for your support and personal involvement in correcting the problems created by the passage of Public Law 103–441. The correction of these problems will allow not only the Sheriffs of Florida, but also the Sheriffs across this Nation, to carry out their lawful duties and to utilize agency aircraft to better serve the public safety of our citizens.

Sheriff Tom Mylander, Hernando County, has requested that I forward to you the enclosed information concerning the utilization of aircraft as it relates to juvenile or gang related activities. This information was requested by a member of your staff.

Please let us know if there is anything further that we might do to assist you in your efforts.

Sincerely,

J.M. "BUDDY" PHILLIPS,
Executive Director.

SUPPORT OF PUBLIC SERVICES AVIATION ACT OF 1997

Whereas, air support is a vital component of police operations; and,

Whereas, hundreds of law enforcement agencies at the local, state and federal level operate aircraft; and,

Whereas, in 1994 the United States Congress passed and the President signed Public Law 103–411, which severely restricted law enforcement's ability to effectively utilize aircraft in legitimate law enforcement missions; and,

Whereas, the stated purpose of P.L. 103–411 was the promotion of aviation safety yet of P.L. 103–411 accomplished no appreciable gain in aviation safety; and,

Whereas, restrictions on the sharing of aviation resources imposed by P.L. 103–411 has resulted in reduced public safety and is poor fiscal and public policy; and,

Whereas, the National Sheriff's Association, Airborne Law Enforcement Association and many other associations representing public aircraft operators support legislation that would correct P.L. 103–411; and,

Whereas, H.R. 1521, the Public Services Aviation Act of 1997; is currently before Congress, and

Whereas, H.R. 1521 corrects the deficiencies of P.L. 103–411; now, therefore be it,

Resolved, That the International Association of Chiefs of Police supports the passage and enactment of H.R. 1521, the Public Services Aviation Act of 1997 or its equivalent; and be it further,

Resolved, That the Executive Director or his designee be authorized to transmit a copy of this resolution to all interested parties including, but not limited to, members of the United States House of Representatives and the United States Senate.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the Senator from Florida has brought forward a very good amendment. It is our hope we could agree to it. At this time, because of the potential of a CBO scoring which could impact the underlying bill, it is impossible for us to do so. So our proposal would be we keep this on the list for a vote tomorrow morning, and if we have not gotten the proper response we are comfortable with from CBO, we can take the issue up at that time and try to resolve it at that point.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Ms. Laurie Zastrow and Ms. Diane Trewin of our office be granted the privilege of the floor for the duration of the consideration of the Commerce-State-Justice appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, the Senate-reported Commerce, Justice, State, and the Judiciary Appropriations bill, S. 2260, represents the excellent work of my distinguished colleague from New Hampshire, Subcommittee Chairman GREGG. It is a difficult task to balance the competing program requirements funded in this bill, and he and his staff are to be commended for their efforts to present a sound and equitable measure for the Senate's consideration.

When outlays from prior-year budget authority and other completed actions are taken into account, the bill totals $33.2 billion in budget authority and $31.8 billion in outlays for fiscal year 1999.

The bill is within the revised Senate Subcommittee's Section 302(b) allocation for both budget authority and outlays. It is $10 million in budget authority and $6 million in outlays below the 302(b) allocation. It is $1.4 billion in budget authority and $2.6 billion in outlays above the 1998 level.

I today submit a table displaying the Budget Committee scoring of this bill.

It is a pleasure serving on the Appropriations Subcommittee with Chairman GREGG. I appreciate the consideration he gave to issues I brought before the Subcommittee, as well as his attention to the many important programs contained in this bill.

I ask unanimous consent the table be printed in the RECORD.

There being no objection, the table was ordered to be pritned in the RECORD, as follows:

S. 2260, COMMERCE-JUSTICE APPROPRIATIONS, 1999—SPENDING COMPARISONS—SENATE-REPORTED BILL

(Fiscal Year 1999, $ millions)

	Defense	Non-defense	Crime	Mandatory	Total
Senate-Reported Bill:					
Budget authority	335	26,775	5,514	554	33,178
Outlays	320	26,285	4,688	555	31,848
Senate 302(b) allocation:					
Budget authority	335	26,775	5,524	554	33,188
Outlays	326	26,285	4,688	555	31,854
1998 level:					
Budget authority	265	25,725	5,225	522	31,737
Outlays	346	24,627	3,779	532	29,284
President's request:					
Budget authority	336	27,534	5,513	554	33,937
Outlays	331	27,030	4,590	555	32,506
House-passed bill:					
Budget authority					
Outlays					
SENATE-REPORTED BILL COMPARED TO:					
Senate 302(b) allocation:					
Budget authority			−10		−10
Outlays	−6				−6
1998 level:					
Budget authority	70	1,050	289	32	1,441
Outlays	−26	1,658	909	23	2,564

S. 2260, COMMERCE-JUSTICE APPROPRIATIONS, 1999—SPENDING COMPARISONS—SENATE-REPORTED BILL—Continued

(Fiscal Year 1999, $ millions)

	Defense	Non-defense	Crime	Mandatory	Total
President's request:					
Budget authority	−1	−759	1	.....	−759
Outlays	−11	−745	98	.....	−658
House-passed bill:					
Budget authority	335	26,775	5,514	554	33,178
Outlays	320	26,285	4,688	555	31,848

NOTE: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. GRAMS. Mr. President, I don't wish to interrupt the debate on this bill, but as no one desires to speak right now, I ask unanimous consent I be allowed to speak for up to 20 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Thank you, Mr. President.

RETIREMENT SYSTEM: THE INTERNATIONAL EXPERIENCE

Mr. GRAMS. Mr. President, in my most recent statements before this Chamber about the Social Security system, I have taken time to discuss its history and the looming crisis, that it will shatter the retirement dreams of our hard-working Americans.

Mr. President, in my most recent statements before this chamber about the Social Security system, I discussed its history and the looming crisis that will shatter the retirement dreams of hard-working Americans. Tonight, I would like to discuss Social Security from a different perspective, by turning our focus away from the coming crisis to look at the steps other nations have taken to improve their own retirement systems. I realize that it may be hard to look outside ourselves for possible solutions to the problems our Social Security system is facing—after all, we are a nation that is typically at the forefront of innovation. But if we set aside our pride, we can learn volumes about the viable international options before us.

Retirement security programs throughout the world will face a serious challenge in the 21st century due to a massive demographic change that is now taking place. The World Bank recently warned that, across the globe, "old-age systems are in serious financial trouble and are not sustainable in their present form." Europe, Japan, and the U.S. share the identical problem of postwar demographic shifts that cannot sustain massively expensive social welfare programs. How to meet this challenge is critical to providing retirement security while maintaining sustainable, global, economic growth.

The crisis awaiting our Social Security system is nearly as serious as that faced by the European Union and Japan. What is equally serious is that, while many other countries have moved far ahead of us in taking steps to reform their old-age retirement systems, Congress has yet to focus on this problem. Some of the international efforts are extremely successful; those reforms may offer useful models as we explore solutions to our Social Security system.

Currently, there are three basic models being implemented abroad that deserve our attention. The "Latin American" model primarily follows Chile's experience. The Organization for Economic Cooperation and Development model, or "OECD," is underway in the United Kingdom, Australia, Switzerland, and Denmark. There is even a third model—the "Notional Account" model—that has been adopted in countries such as Sweden, Italy, Latvia, China, and is on the verge of adoption in Poland.

These models have differences, and the nations implementing them have differences as well—economic, political, and demographic. But they all share a common theme and were born out of the same fiscal crisis that is facing the United States within the next decade. Like the U.S., each of these countries has an aging population, and—before the reforms—had an inability to meet the future retirement needs of their workforce. So in an effort to avoid economic devastation for their people and their nation as a whole, they undertook various reforms that are proving to be a win-win for both current and future retirees.

How did they do it? And what lessons can we—as policy leaders—take from their experiences and apply here at home as we grapple with the shortcomings of our own retirement system? These are some of the questions I will address today in my remarks. The bottom line is that each nation faced the key challenges of taking care of those already retired or about to reach retirement age, ensuring that future retirees benefitted from the changes, and finding an affordable means of funding the transition from a pay-as-you-go government retirement system to a future financing mechanism.

Mr. President, I'll begin with the Latin American model and in particular, focus on Chile's experiences. Back in the late 1970s, Chile realized that its publicly financed pay-as-you-go retirement system would soon be unable to meet its retirement promises. After a national debate and extensive outreach, the Chilean government approved a law to fully replace its system with a system of personalized Pension Savings Accounts by 1980. Nearly two decades later, pensions in Chile are between 50 to 100 percent higher than they were under the old government system. Real wages have increased, personal savings rates have nearly tripled, and the economy has grown at a rate nearly double what it had prior to the change.

Under the Chilean plan, Pension Savings Accounts, or PSAs, were created to replace the old system and operate much like a mutual fund. Like the old government plan, PSAs were to provide workers with approximately 70 percent of their lifetime working income. That is where the similarities between Chile's old and improved retirement programs ends.

When Chile created the PSA system, the existing system of having workers and employers pay social security taxes to the government was completely eliminated. Instead, workers began to make a mandatory contribution in the amount of 10 percent of their income to their own PSA. The old employer taxes were then available to workers in the form of higher wages. Through this evolution from the old, hidden labor tax on workers to the new PSA system, workers saw real gross wages increase by five percent. Furthermore, it reduced the cost of labor—and the economy prospered.

Under the PSA system, a worker has great control over his or her retirement savings account. First, the worker has the ability to choose who will manage their fund from a pool of government-regulated companies known as "AFPs." This provides the worker with the ability to move between managers, while maintaining protections from serious losses resulting from undiversified risk portfolios, theft, or fraud. The resulting competition between AFPs results in lower fees for workers, higher returns averaging 12 percent annually, and better service—something that rarely occurs with government plans.

Second, each worker is empowered to ensure the level of retirement income they desire. Armed with a passbook and account statements, these workers have the information necessary to follow their earnings growth and decide how to adjust their tax-free voluntary contributions in order to yield a specific annual income upon their retirement. For example, the Chilean system was established to provide an annual

income equivalent to 70 percent of lifetime income. However, under the PSA system, income is averaging 78 percent.

Third, workers can choose from two payout options upon retirement. A worker can leave his or her funds in the PSA and take programmed withdrawals from the account with the only limitation based upon projected lifetime expectancy. Should the retiree die prior to exhausting the PSA fund, any excess amount is transferred to his or her estate. The other scenario allows a worker to use the PSA funds to purchase an annuity from a private insurance company. These annuities guarantee a monthly income as well, and is indexed for inflation. In the event of death, survivor benefits are provided to the workers' dependents. They build an estate for their heirs.

And finally, PSA accounts are not automatically forfeited to the government in the case of premature death or disability of a worker. Under the Chilean system, the fund managers provide an insurance protection through private insurance companies. The fee is in addition to the 10 percent mandatory savings contribution, and ensures the PSA funds are not lost should a worker not reach full retirement age.

Personal accounts have brought personal freedom to Chile's retirement system. Today, more than 93 percent of the workforce participates in the PSAs, which boast an accumulated investment fund of $30 billion. This is remarkable when you consider Chile is a developing nation of 14 million people with a GDP of $70 billion. Chile's success has paved the way for other Latin American countries such as Argentina, Peru, and Columbia and has sparked the momentum for reform in Mexico, Bolivia, and El Salvador.

While individual accounts are proving successful in Latin America, the OECD model utilizes a "group" choice approach as a key element. Rather than allowing an individual to choose his or her own fund manager, the employer or union trustee chooses for the company or occupational group as a whole. This approach most likely developed from the fact that these reforms were politically easier to "add-on" to the existing government pay-as-you-go pension tier. Furthermore, reform leaders worked closely with union leaders when they began to implement the next tier of private plans, and then moved the reform sector by sector.

The movement began during the 1980s in the United Kingdom. Since the end of World War II, the British had a basic, flat rate, non-means tested government pension for all who paid into the national insurance plan. By the 1970s, a new tier was added to bridge a gap between those covered by private pensions and those without them. This State Earnings Related Pension Scheme, or SERPS, promised—in exchange for a payroll tax—an earnings-based pension of 25 percent of the best 20 years of earnings, in addition to the Basic State Pension.

However, like other nations, the government pension plan was facing bankruptcy and reform was critical to the future security of its workers and of the nation as a whole. Under the leadership of Social Security Secretary Peter Lilley, the British system evolved and began to enable individuals to choose the option of a new, self-financing private pension plan.

Under the British plan, current retirees were protected, but current workers were given a choice of pension plans. Those workers had the option of either staying in the SERPS program or contracting out to a private fund. If a worker chose to remain within SERPS, they would receive a reduced pension amounting to 20 percent of their best 20 years of earnings. However, if a worker contracted out of the SERPS, they were given the opportunity to participate in an occupational pension plan, and were eventually allowed to take part in a new private, portable pension plan much like a 401(k).

To pay for the plan, a worker who chooses to contract out receives a rebate equivalent to a portion of their payroll taxes. This rebate amounts to about 4.6 percent of earnings and must be invested in an approved plan. Additional contributions can be made—tax free—by employers and employees up to a combined total limit of 17.5 percent of the individual's income. As a safety net, companies are required to guarantee that workers who contract out will receive a pension at least equivalent to what they would have under SERPS, and are limited as to the amount that can be invested in the employer's own company.

To address changing workforce trends and not hold workers captive to employer plans, the British government created the "appropriate personal pension," or APP, plan which would be available to workers, as well as to the self-employed or unemployed. These fully portable plans are much like the employer plans, funded by the 4.6 percent rebate in payroll taxes, and are an alternative to the occupational plan or the SERPS. As an incentive, the British government offered an additional "payroll tax rebate" above the standard rebate during the APPs infancy. This made these fully portable APPs attractive options for younger workers.

While there are many safeguards—including the ability for former SERPS workers to opt back into the government-run program—the success of the English system has been overwhelming. When the transformation began, analysts expected a participation rate of a half million workers, growing to 1.75 million over time. Today, nearly 73 percent of the workforce participates in private plans, boasting a total pool worth more than $1 trillion. The resulting economic growth and ability to control entitlement spending has analysts predicting the United Kingdom will pay off its national debt by 2030. In case any of my colleagues have forgotten, that is about the same time our Social Security trust fund is anticipated to go bankrupt.

Similarly, Australia has found much success in transforming its government pay-as-you-go pension plan to a more self-directed plan. By the 1980s, its existing retirement plan offered a full pension for all Australians over age 69, although most qualified to begin drawing benefits by age 60 for women and 65 for men. Like its international neighbors, Australia was facing a future financial situation that threatened worker retirement security and Australia's standing in the global economy.

As Australia began to review its options, three goals emerged. Whatever changes were made, the new system had to provide more benefits for future retirees than they would receive under the current plan; it had to increase national savings, and any new plan had to reduce budgetary pressures facing the system. By the mid-1980s, the Australian government instituted a mandatory savings plan called "superannuation funds." In 1992, the program matured into a new Superannuation Guarantee that is still a work in progress.

During the transformation process, the Australian government took key steps to change its course. First, it strengthened the income means-testing for the old age pension. In doing so, the government also added an asset test in the calculations process. This was critical since the dependence on Social Security had contributed to the decline in national savings. Second, the government made the new superannuation savings portable, and instituted a penalty for withdrawals before age 55. This provided new incentives for savings since workers could take their funds with them, and disincentives for spending one's nest egg prior to retirement. Third, the government took steps to build union investment into the savings program. Rather than giving workers wage increases, negotiators reached an agreement to provide a 3-percent contribution into a superannuation fund for all employees and called for such guarantees to be built into all future labor contracts. Fourth, the government expanded coverage of the superannuation fund to virtually all workers, and every employer is required to contribute a set amount to the fund on the employees' behalf. The required amount is currently 3 percent and will grow to 9 percent by 2002.

Since the beginning of the Australian reform, additional changes have occurred. Today, workers have more

choices between which superannuation fund their mandatory savings can be invested in. Additional tax relief has been provided for voluntary savings, but savings are not tax-free when invested. As Australia reviews its overall tax structure, however, there have been discussions about making contributions tax-free and deferring taxation until the funds are withdrawn. Another key issue was the total elimination of early withdrawal. Because a retirement safety net remains in place, the goal here was to eliminate a worker from "double dipping"—collecting from the savings fund, then coming back to the government for a pension at age 65.

The Australian reforms are considered a successful example of the OECD model. And as more initiatives are implemented, it will likely continue to prove profitable for future retirees "down under."

The final example I would like to touch upon is the "notional account" model—like the system in Sweden. Under this plan, workers receive a passbook that reflects their defined contributions and the interest being accumulated over time, but there are no real assets in the account. The fund is just a "notion" of what it would be if it were funded. In some respects, it might be compared to the Personal Earnings Benefit Statements U.S. workers receive from the Social Security Administration. The up-side is there is no transition cost for a nation to move from a government-run, pay-as-you-go system to a notional pay-as-you-go system. The downside is that the funds remain at risk, as do future retirees. The bottom line here is that reforms have to be real if we are going to see any long-term benefit for workers.

Mr. President, it is clear that whatever the specifics, reforms are being implemented abroad that are proving to be a great success for both today's retirees and tomorrow's. I hope we have learned that we are not operating in a vacuum here—that there are real models out there for us to review and consider.

For the United States to be successful in the reforms it undertakes to ensure retirement security, there are four key principles we must uphold. First, we must protect all current and near-term retirees. Our government made a promise to them, and we must ensure any transformation we pursue does not impact the decisions they have made for their golden years.

Second, we must ensure that any proposal holds the promise of improved benefits—and greater retirement security—for future retirees.

Today's younger generations have every right to be skeptical about government promises to revamp a system they expect to go bankrupt. They need to know there is a solution that provides retirement security for them.

Third, any proposal should encourage personal choice by allowing individuals to establish personal retirement accounts.

Fourth, the government must not turn to tax increases to fund our pursuit of retirement security.

Finally, we must recognize that any change will require courage. We must admit to ourselves we have a system that is fine today but is a time bomb waiting to explode. The decisions ahead will not be easy; if they were, they would have been made already. But the debate must begin somewhere.

On August 14, this nation will recognize the 63rd anniversary of Congress' approval of the Social Security system. It is my hope that we will mark the occasion by engaging in a national debate over how we can transform our ailing system into a vibrant retirement program for generations to come.

I thank the Chair. I yield the floor.

Mr. GREGG. Mr. President, even though it has nothing to do with this bill, I would like to congratulate the Senator from Minnesota for his truly superb analysis of the Social Security issue and especially the information he brings to this Senate relative to other countries that have pursued reform of their pension programs.

There is no question but if there is a single issue of fiscal policy which most threatens this country's economic well-being in the future and, as a result, threatens our well-being today, it is the Social Security crisis. That occurs as a function of demographics; beginning in the year 2008, the Social Security system in this country pays more out than it is taking in. It begins that cost expansion dramatically as it moves into the period 2015, and by the year 2029–2030 the system is bankrupt and the Nation is unable to afford the costs of it.

It is absolutely essential that we guarantee our children and the postwar baby-boom generation which is about to go into the system a chance to have a viable Social Security system.

Some of the ideas the Senator from Minnesota has outlined are excellent approaches to this. I congratulate him, obviously, for the intensity of thought and energy he has put into this issue. I hope he will take an opportunity to review a bill which I have cosponsored along with Senator BREAUX from Louisiana to try to address this, which bill provides long-term solvency for the next 100 years. I include some of the ideas outlined by the Senator from Minnesota.

In any event, the thoughts of the Senator from Minnesota were extremely insightful and very appropriate, and I hope people have a chance to read them and review them as we go forward.

I yield the floor.

MORNING BUSINESS

Mr. GREGG. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM, Mr. GRASSLEY, and Mr. BAUCUS, pertaining to the introduction of S. 2339 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SENATOR JEFF SESSIONS RECEIVES GOLDEN GAVEL AWARD

Mr. LOTT. Mr. President, today, the Senate pauses to recognize Senator JEFF SESSIONS, who has now presided over the Senate for one hundred hours during the 105th Congress. It is a long-standing tradition in the U.S. Senate to award these members with the golden gavel.

Since the 1960's, the golden gavel has served to mark a Senator's 100th presiding hour and continues to represent our appreciation for the time that these dedicated members contribute to presiding over the U.S. Senate—a very important duty.

With respect to presiding, Senator SESSIONS and his conscientious staff have worked to assist with presiding difficulties when scheduling difficulties arose.

It is with sincere appreciation that I announce to the Senate the latest recipient of the Golden Gavel Award—Senator JEFF SESSIONS.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 20, 1998, the federal debt stood at $5,532,950,037,759.42 (Five trillion, five hundred thirty-two billion, nine hundred fifty million, thirty-seven thousand, seven hundred fifty-nine dollars and forty-two cents).

Five years ago, July 20, 1993, the federal debt stood at $4,335,448,000,000 (Four trillion, three hundred thirty-five billion, four hundred forty-eight million).

Ten years ago, July 20, 1988, the federal debt stood at $2,553,113,000,000 (Two trillion, five hundred fifty-three billion, one hundred thirteen million).

Fifteen years ago, July 20, 1983, the federal debt stood at $1,329,282,000,000 (One trillion, three hundred twenty-nine billion, two hundred eighty-two million).

Twenty-five years ago, July 20, 1973, the federal debt stood at $455,844,000,000 (Four hundred fifty-five billion, eight

hundred forty-four million) which reflects a debt increase of more than $5 trillion—$5,077,106,037,759.42 (Five trillion, seventy-seven billion, one hundred six million, thirty-seven thousand, seven hundred fifty-nine dollars and forty-two cents) during the past 25 years.

HONORING BRUCE ABSHEER

Mr. ASHCROFT. Mr. President, I rise today to commend Bruce Absheer for his lifetime service to the Federal Bureau of Alcohol, Tobacco, and Firearms (ATF) in St. Louis, Missouri. On July 4, 1998, Mr. Absheer retired as ATF Inspector from the St. Louis Office of the Bureau, ending 31 years of dedicated service as a federal employee.

Mr. Absheer began his career with the Federal Bureau of Alcohol, Tobacco, and Firearms on May 1, 1967. During his long tenure as an Inspector, Bruce conducted on-site alcohol, tobacco, firearms, and explosives inspections of these regulated industries. The inspections included examinations, analysis, and reports on operations to evaluate compliance with the applicable laws and regulations.

Through his work, Mr. Absheer represented ATF with integrity, loyalty, and professionalism. His commitment to excellence earned him the ATF Employee of the Year for the Midwest region in 1987, setting new standards.

As our nation looks to individuals to become more active in the workforce, I commend Bruce Absheer for his outstanding performance and service and thank him for his dedication to America. We wish him the very best as he moves on to face new challenges, opportunities, and rewards.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting two withdrawals and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO TERRORISTS WHO THREATEN THE MIDDLE EAST PEACE PROCESS—MESSAGE FROM THE PRESIDENT—PM 146

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on the developments concerning the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process that was declared in Executive Order 12947 of January 23, 1995. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c).

1. On January 23, 1995, I signed Executive Order 12947, "Prohibiting Transactions with Terrorists Who Threaten To Disrupt the Middle East Peace Process" (the "Order") (60 Fed. Reg. 5079, January 25, 1995). The Order blocks all property subject to U.S. jurisdiction in which there is any interest of 12 terrorists organizations that threaten the Middle East peace process as identified in an Annex to the Order. The Order also blocks the property and interests in property subject to U.S. jurisdiction of persons designated by the Secretary of State, in coordination with the Secretary of the Treasury and the Attorney General, who are found (1) to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process, or (2) to assist in, sponsor, or provide financial, material, or technological support for, or services in support of, such acts of violence. In addition, the Order blocks all property and interests in property subject to U.S. jurisdiction in which there is any interest of persons determined by the Secretary of the Treasury, in coordination with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of, any other person designated pursuant to the Order (collectively "Specially Designated Terrorists" or "SDTs").

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDTs, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of such persons. This prohibition includes donations that are intended to relieve human suffering.

Designations of persons blocked pursuant to the Order are effective upon the date of determination by the Secretary of State or her delegate, or the Director of the Office of Foreign Assets Control (OFAC) acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the FEDERAL REGISTER, or upon prior actual notice.

Because terrorist activities continue to threaten the Middle East peace process and vital interests of the United States in the Middle East, on January 21, 1998, I continued for another year the national emergency declared on January 23, 1995, and the measures that took effect on January 24, 1995, to deal with that emergency. This action was taken in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)).

2. On January 25, 1995, the Department of the Treasury issued a notice listing persons blocked pursuant to Executive Order 12947 who have been designated by the President as terrorist organizations threatening the Middle East peace process or who have been found to be owned or controlled by, or to be acting for or on behalf of, these terrorist organizations (60 *Fed. Reg.* 5084, January 25, 1995). The notice identified 31 entities that act for or on behalf of the 12 Middle East terrorist organizations listed in the Annex to Executive Order 12947, as well as 18 individuals who are leaders or representatives of these groups. In addition, the notice provided 9 name variations or pseudonyms used by the 18 individuals identified. The list identifies blocked persons who have been found to have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process or to have assisted in, sponsored, or provided financial, material or technological support for, or services in support of, such acts of violence, or are owned or controlled by, or act for or on behalf of other blocked persons. The Department of the Treasury issued three additional notices adding the names of three individuals, as well as their pseudonyms, to the List of SDTs (60 *Fed. Reg.* 41152, August 11, 1995; 60 *Fed. Reg.* 44932, August 29, 1995; and 60 *Fed. Reg.* 58435, November 27, 1995).

3. On February 2, 1996, OFAC issued the Terrorism Sanctions Regulations (the "TSRs" or the "Regulations") (61 *Fed. Reg.* 3805, February 2, 1996). The TSRs implement the President's declaration of a national emergency and imposition of sanctions against certain persons whose acts of violence have the purpose or effect of disrupting the Middle East peace process. There have been no amendments to the TSRs, 21 C.F.R. Part 595, administered by the Office of Foreign Assets Control of the Department of the Treasury, since my report of January 28, 1998.

4. Since January 25, 1995, OFAC has issued six licenses pursuant to the Regulations. These licenses authorize payment of legal expenses and the disbursement of funds for normal expenditures for the maintenance of family members, the employment and payment of salary and educational expenses, payment for secure storage of tangible assets, and payment of certain administrative transactions, to or for individuals designated pursuant to Executive Order 12947.

5. The expenses incurred by the Federal Government in the 6-month period from January 23 through July 22, 1998, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the national emergency with respect to organizations that disrupt the Middle East peace process, are estimated at approximately $165,000. These data do not reflect certain costs of operations by the intelligence and law enforcement communities.

6. Executive Order 12947 provides this Administration with a tool for combating fundraising in this country on behalf of organizations that use terror to undermine the Middle East peace process. The Order makes it harder for such groups to finance these criminal activities by cutting off their access to sources of support in the United States and to U.S. financial facilities. It is also intended to reach charitable contributions to designated organizations and individuals to preclude diversion of such donations to terrorist activities.

Executive Order 12947 demonstrates the determination of the United States to confront and combat those who would seek to destroy the Middle East peace process, and our commitment to the global fight against terrorism. I shall continue to exercise the powers at my disposal to apply economic sanctions against extremists seeking to destroy the hopes of peaceful coexistence between Arabs and Israelis as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 21, 1998.*

MESSAGES FROM THE HOUSE

At 12:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 8. An act to amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicle emissions, and for other purposes.

H.R. 3249. An act to provide for the rectification of certain retirement coverage errors affecting Federal employees, and for other purposes.

H.R. 3874. An act to amend the National School Lunch Act and the Child Nutrition Act of 1996 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those acts through fiscal year 2003, and for other purposes.

H.R. 4058. An act to amend title 49, United States Code, to extend the aviation insurance program, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 208. Concurrent resolution expressing the sense of Congress regarding access to affordable housing and expansion of homeownership opportunities.

H. Con. Res. 298. Concurrent resolution expressing deepest condolences to the State and people of Florida for the losses as a result of the wild land fires occurring in June and July 1998, expressing support to the State and people of Florida as they overcome the effects of the fires, and commending the heroic efforts of firefighters from across the Nation in battling the fires.

H. Con. Res. 301. Affirming the United States commitment to Taiwan.

The message further announced that the House has passed the following bill, without amendment:

S. 2316. An act to require the Secretary of Energy to submit to Congress a plan to ensure that all amounts accrued on the books of the United States Enrichment Corporation for the disposition of depleted uranium hexafluoride will be used to treat and recycle depleted uranium hexafluoride.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1853) to amend the Carl D. Perkins Vocational and Applied Technology Education Act, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House for the consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. GOODLING, and Mr. MCKEON, Mr. RIGGS, Mr. PETERSON of Pennsylvania, Mr. SAM JOHNSON of Texas, Mr. CLAY, Mr. MARTINEZ, and Mr. KILDEE.

ENROLLED BILLS SIGNED

At 2:22 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 318. An act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required as a condition for entering into residential mortgage transaction, to abolish the Thrift Depositor Protection Oversight Board, and for other purpose.

S. 2316. An act to require the Secretary of Energy to submit to Congress a plan to ensure that all amounts accrued on the books of the United States Enrichment Corporation for the disposition of depleted uranium hexafluoride will be used to treat and recycle depleted uranium hexafluoride.

H.R. 1439. An act to facilitate the sale of certain land in Tahoe National Forest in the State of Colorado to Placer County, California.

H.R. 1460. An act to allow for the election of the Delegate from Guam by other than separate ballot, and for other purposes.

H.R. 1779. An act to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing certain improvements.

H.R. 2165. An act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 3862 in the State of Iowa, and for other purposes.

H.R. 2217. An act to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes.

H.R. 2676. An act to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

H.R. 28841. An act to extend the time required for the construction of a hydroelectric project.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 8. An act to amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicle emissions, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3249. An act to provide for the rectification of certain retirement coverage errors affecting Federal employees, and for other purposes; to the Committee on Finance.

H.R. 4058. An act to amend title 49, United States Code, to extend the aviation insurance program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolutions were read and referred as indicated:

H. Con. Res. 208. Concurrent resolution expressing the sense of Congress regarding access to affordable housing and expansion of homeownership opportunities; to the Committee on Banking, Housing, and Urban Affairs.

H. Con. Res. 298. Concurrent resolution expressing deepest condolences to the State and people of Florida for the losses as a result of the wild land fires occurring in June and July 1998, expressing support to the State and people of Florida as they overcome the effects of the fires, and commending the heroic efforts of firefighters from across the Nation in battling the fires; to the Committee on Environment and Public Works.

H. Con. Res. 301. Affirming the United States commitment to Taiwan; to the Committee on Foreign Relations.

Pursuant to the order of July 21, 1998, the following bill was referred to the Committee on Finance for a period not to extend beyond July 30, 1998:

S. 442. A bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second time, and placed on the calendar:

H.R. 3874. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes.

The following bill was read the second time, and placed on the calendar:

H.R. 1432. An act to authorize a new trade and investment policy for sub-Saharan Africa.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on July 21, 1998, he presented to the President of the United States the following enrolled bills:

S. 318. An act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required as a condition for entering into a residential mortgage transaction, to abolish the Thrift Depositor Protection Oversight Board, and for other purposes.

S. 2316. An act to require the Secretary of Energy to submit to Congress a plan to ensure that all amounts accrued on the books of the United States Enrichment Corporation for the disposition of depleted uranium hexafluoride will be used to treat and recycle depleted uranium hexafluoride.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany the bill (S. 1301) to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes (Rept. No. 105–253).

By Mr. FAIRCLOTH, from the Committee on Appropriations, without amendment:

S. 2333: An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105–254).

By Mr. MCCONNELL, from the Committee on Appropriations, without amendment:

S. 2334: An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105–255).

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2206: A bill to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes (Rept. No. 105–256).

By Mr. THOMPSON, from the Committee on Governmental Affairs, with amendments:

H.R. 1836: A bill to amend chapter 89 of title 5, United States Code, to improve administration of sanctions against unfit health care providers under the Federal Employees Health Benefits Program, and for other purposes (Rept. No. 105–257).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. FAIRCLOTH:

S. 2332. A bill to limit the ability of prisoners to challenge prison conditions; to the Committee on the Judiciary.

S. 2333. An original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. MCCONNELL:

S. 2334. An original bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. HARKIN (for himself and Mr. HOLLINGS):

S. 2335. A bill to amend title XVIII of the Social Security Act to improve efforts to combat medicare fraud, waste, and abuse; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2336. A bill to amend chapter 5 of title 28, United States Code, to transfer Schuylkill County, Pennsylvania, from the Eastern Judicial District of Pennsylvania to the Middle Judicial District of Pennsylvania; to the Committee on the Judiciary.

By Mr. SMITH of Oregon (for himself, Mr. WYDEN, Mr. CRAIG, Mr. GRAHAM, Mr. GORTON, Mr. BUMPERS, Mr. HATCH, Mr. MCCONNELL, and Mr. MACK):

S. 2337. A bill to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers, and for other purposes; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. SPECTER):

S. 2338. A bill to amend the Harmonized Tariff Schedule of the United States to provide for equitable duty treatment for certain wool used in making suits; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. BAUCUS, Mr. HATCH, Mr. BREAUX, Mr. JEFFORDS, and Mr. KERRY):

S. 2339. A bill to provide for pension reform, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FAIRCLOTH:

S. 2332. A bill to limit the ability of prisoners to challenge prison conditions; to the Committee on the Judiciary.

CRIME DOESN'T PAY PRISON ACT

• Mr. FAIRCLOTH. Mr. President, today I am introducing the Crime Doesn't Pay Prison Act, a bill to curb the flood of frivolous prisoner lawsuits over prison conditions.

The primary purpose of this act is to articulate an objective national standard for measuring the minimum decency of prison conditions. The Constitution does not dictate a minimum standard of living for inmates, much less an enjoyable comfortable level of living. This should be Congress' job.

In addition to the initial goal of a national prison standard, this bill has other purposes. It would ensure that State governments are required to spend only that amount necessary to achieve the minimum standard for conditions of confinement mandated by the Constitution. It would further ensure that the Federal courts require only that prison conditions do not constitute the unnecessary infliction of pain or neglect upon inmates, such that they are deprived of the minimum civilized measure of life's basic necessities.

Absent a national standard, convicted criminals enjoy a standard of living higher than that of the law-abiding, working poor. According to the federal government, the standard of living for the law-abiding poor is $8,000 a year. Yet for a convicted criminal, the average expenditure per prisoner amounts to an unbelievably high $23,000 a year.

Absent a national standard, the standard of living in prison will continue to escalate. Since 1960, the average total state expenditure per inmate has increased almost twice as fast as median income, and more than twice as fast as the poverty threshold. This is unacceptable.

Many unnecessary amenities, such as regulation softball fields, video games, and premium pay cable channels are provided to criminals, contribute to the increasing standard of living in prisons. Other amenities include expensive musical instruments for traveling "choirs," not to mention martial arts training and boxing. Perhaps here is a primary cause of prison violence. How can one counter the violence if taxpayers' dollars are being spent on the very classes which teach and encourage it?

Absent a national standard, criminals will continue to fight for their "right" to amenities in prison, claiming that denial of same "violates" their Eighth Amendment right against "cruel and unusual punishment." Any violation of our Bill of Rights is, most assuredly, a vital concern and should not be tolerated.

Nor, however, should frivolous claims which do nothing but clog our court systems and deny our citizens speedy access to justice for legitimate cases. Several actual cases demonstrate this. One includes a Utah criminal who claimed that his Eighth Amendment rights were violated when he was provided with Converse tennis shoes, rather than L.A. Gear or Reebok. Another case dealt with an Arkansas criminal

who was appalled that he was given paper napkins during meals instead of cloth napkins. Yet another ludicrous example involves a Missouri criminal, who claimed cruel and unusual punishment when he was not provided with salad bars or brunches on weekends. This is absolutely preposterous.

The benefits of this "Crime Doesn't Pay Prison" Act are extensive. As of right now, 25% of the state and federal courts' civil dockets are comprised of inmate challenges to conditions of confinement. This bill would reduce this number considerably. It also frees state Attorneys General to pursue litigation on behalf of the citizenry.

The bill would drastically reduce the increasing cost of incarceration, allowing the money saved thereby to be used instead for the expansion of existing prisons.

It puts an end to the injustice of convicted criminals enjoying a higher standard of living, by mere virtue of their imprisonment, than the law-abiding working poor.

In addition to giving the prison administrators the flexibility to find that medium of good order and discipline within the prisons, perhaps most importantly, this bill would demonstrate to prisoners that criminal behavior will not be rewarded with luxuries beyond the reach of law-abiding, poor Americans.

I strongly urge my colleagues to support this bill.•

By Mr. HARKIN (for himself and Mr. HOLLINGS):

S. 2335. A bill to amend title XVIII of the Social Security Act to improve efforts to combat Medicare fraud, waste, and abuse; to the Committee on Finance.

MEDICARE WASTE TAX REDUCTION ACT OF 1998

• Mr. HARKIN. Mr. President, today I am introducing with my colleague from South Carolina, Senator HOLLINGS, an important piece of legislation that will help to protect and preserve Medicare. The bill is entitled the Medicare Waste Tax Reduction Act of 1998.

For nearly ten years now, I have worked to combat fraud, waste and abuse in the Medicare program. As Chairman and now Ranking Member of the Senate Appropriations Subcommittee with oversight of the administration of Medicare, I've held hearing after hearing and released report after report documenting the extent of this problem. While virtually no one was paying attention to our effort for many years, we've succeeded in bringing greater attention and focus to this problem in the past several years.

Part of our effort has been to try to quantify the scope of the problem. Several years ago, the General Accounting Office reported that up to 10 percent of Medicare funds could be lost to fraud, waste and abuse each year.

Many questioned that estimate as too large. They said the problem existed, but it wasn't nearly as big as 10 percent. Then, as you know, last year the Inspector General conducted the first-ever detailed audit of Medicare payments. That Chief Financial Officer Act audit found that fully 14 percent of Medicare payments in 1996, or $23 billion, had been made improperly.

That's a $23 billion "waste tax" on the American people. And the purpose of today's summit to figure out the best way to cut that tax. So, how do you cut this tax? I know there are no "magic-wand" solutions—this is a complex problem with many components. But basically, you need four things: well thought out laws, adequate resources, effective implementation and the help of seniors and health providers. We've made progress on each of these fronts over the last couple of years, but much more remains to be done.

First, the reforms embodied in the Health Insurance Portability Act and the Balanced Budget Act must be effectively implemented. Effective implementation of these new reforms are vital and must be given high priority. And, Medicare, the Inspector General and the Justice Department must continue to aggressively use new authority to crack down on Medicare fraud.

The Medicare Waste Tax Reduction Act I am introducing today will take a number of important steps to stop the ravaging of Medicare.

This Bill for example, would direct HCFA to double and better target audits and reviews to detect and discourage mispayments. Currently only a tiny fraction of Medicare claims are reviewed before being paid and less than 2 percent of providers receive a comprehensive audit annually. We must have the ability to separate needed care from bill padding and abuse.

It would also require Medicare to aggressively use it's newly improved "inherent reasonableness" authority. It is vitally important that Medicare carriers be held accountable for their performance in protecting the program from abuse. Preventing abuse and other inappropriate payments should be the most important performance criteria these entities are measured by.

Our bill would also expand the Medicare Senior Waste Patrol Nationwide. Seniors are our front line of defense against Medicare fraud, waste and abuse. However, too often, seniors don't have the information they need to detect and report suspected mistakes and fraud. By moving the Waste Patrol nationwide, implementing important BBA provisions and assuring seniors have access to itemized bills we will strike an important blow to Medicare waste.

The bill would also give Medicare the authority to be a more prudent purchaser. As passed by the Senate, the Balanced Budget Act gave Medicare the authority to quickly reduce Part B payment rates (except those made for physician services) it finds to be grossly excessive when compared to rates paid by other government programs and the private sector. In conference, the provision was limited to reductions of no more than 15 percent. This bill would restore the original Senate language. In addition, to assure that Medicare gets the price it deserves given its status as by far the largest purchaser of medical supplies and equipment, Medicare would pay no more than any other government program for these items. Finally, overpayments for prescription drugs and biologicals would be eliminated by lowering Medicare's rate to the lowest of either the actual acquisition cost or 95% of the wholesale cost.

The Medicare Waste Tax reduction Act of 1998 would also ensure that Medicare does not pay for claims owed by other plans. Too often, Medicare pays claims that are owed by private insurers because it has know way of knowing a beneficiary is working and has private insurance that should pay first. This provision would reduce Medicare losses by requiring insurers to report any Medicare beneficiaries they insure. Also, Medicare would be given the authority to recover double the amount owed by insurers who purposely let Medicare pay claims they should have paid.

Additionally, coordination between Medicare and private insurers would be strengthened. Often, those ripping off Medicare are also defrauding private health plans. Yet, too little information on fraud cases is shared between Medicare and private plans. In order to encourage better coordination, health plans and their employees could not be held liable for sharing information with Medicare regarding health care fraud as long as the information is not false, or the person providing the information had no reason to believe the information was false.

Another critical component of any successful comprehensive plan to cut the Medicare waste tax is to focus on prevention. Most of our efforts now look at finding and correcting the problem after they occur. While this is important and we need to do even more of it, we all know that prevention is much more cost effective. The old adage "A stitch in time saves nine" was never more true. A major component of an enhanced prevention effort would be the provision of increased assistance and education for providers to comply with Medicare rules.

A good deal of the mis-payments made by Medicare are the result not of fraud or abuse, but of simple misunderstanding of Medicare billing rules by providers. Therefore, this bill provides $10 million a year to fund a major expansion of assistance and education for providers on program integrity requirements. This bill would also ensure the

reduction of paperwork and administrative hassle that could prove daunting to providers. Health professionals have to spend too much time completing paperwork and dealing with administrative hassles associated with Medicare and private health plans. In order to reduce this hassle and provide more time for patient care, the Institute of Medicine would be charged with developing a comprehensive plan by no later than June 1, 1999. Their recommendations are to include the streamlining of variations between Medicare and other payers.

Mr. President, while we have made changes to medicare in attempts to extend its solvency thru the next decade, we urgently need to take other steps to protect and preserve the program for the long-term. We should enact the reforms in this bill to weed out waste, fraud and abuse as a first priority in this effort. I urge all my colleagues to review this proposal and hope that they will join me in working to pass it yet this year.

Mr. President, I also ask unanimous consent a summary of my bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

MEDICARE WASTE TAX REDUCTION ACT OF 1998—SUMMARY

Doubling and Better Targeting Audits and Reviews To Detect and Discourage Abuse. Only a tiny fraction of Medicare claims are reviewed before being paid and less than 2 percent of providers receive a comprehensive audit annually. In order to better detect mistakes and abuses and to provide a more significant deterrent to abuse, the number of medical, utilization and fraud reviews would be doubled. In addition, at least 15% of provider cost reports submitted by home health agencies, skilled nursing facilities and durable medical equipment would be subject to annual audits. The increased reviews would be targeted at services and providers most likely to be subject to abuse.

Expanding Medicare Senior Waste Patrol Nationwide—Seniors are our front line of defense against Medicare fraud, waste and abuse. However, too often, seniors don't have the information they need to detect and report suspected mistakes and fraud. A program to recruit and train retired nurses, doctors, accountants and others to serve as volunteer resources to meet this need at the local level was established as part of the FY 97 Labor-HHS appropriations bill. This 12 state program has proven successful and would be expanded nationwide.

Increased Assistance and Education for Providers to Comply with Medicare Rules—A good deal of the mispayments made by Medicare are the result not of fraud or abuse, but of simple misunderstanding of Medicare billing rules by providers. Therefore, this bill provides $10 million a year to fund a major expansion of assistance and education for providers on program integrity requirements.

Reducing Paperwork and Administrative Hassle for Providers—Health professionals have to spend too much time completing paperwork and dealing with administrative hassles associated with Medicare and private health plans. In order to reduce this hassle and provide more time for patient care, the Institute of Medicine would be charged with developing a comprehensive plan by no later than June 1, 1999. Their recommendations are to include the streamlining of variations between Medicare and other payers.

Making Medicare a More Prudent Purchaser—As passed by the Senate, the Balanced Budget Act gave Medicare the authority to quickly reduce Part B payment rates (except those made for physician services) it finds to be grossly excessive when compared to rates paid by other government programs and the private sector. In conference, the provision was limited to reductions of no more than 15 percent. This bill would restore the original Senate language. In addition, to assure that Medicare gets the price it deserves given its status as by far the largest purchaser of medical supplies and equipment, Medicare would pay no more than any other government program for these items. Finally, overpayments for prescription drugs and biologicals would be eliminated by lowering Medicare's rate to the lowest of either the actual acquisition cost or 95% of the wholesale cost.

Using State of the Art Private Sector Technology to Reduce Billing Errors and Abuse—The GAO and Medicare agree that taxpayers could save over $400 million a year simply by employing up to date computer software developed by the private sector to detect and stop billing errors and abuse. This bill would require Medicare to promptly employ private sector edits determined compatible with Medicare payment policy.

Improving Oversight of Home Health Agencies—Medicare oversight of home health care services would be strengthened. The Secretary would be required to conduct validation surveys of at least 5 percent of the agencies surveyed by every state. This would provide greater assurance that problem agencies are identified and help to reduce variation among states in inspection and enforcement.

Closing Loophole in Anti-Kickback Law for Managed Care—Provisions of HIPAA created a broadened exception from Medicare's anti-kickback rules for any arrangement where a medical provider is at "substantial financial risk" through "any risk arrangement." This broad exception may be serving as a loophole to get around important anti-kickback protections. It would be eliminated, returning to pre-HIPAA law.

Expanding Criminal Penalties For Kickbacks—Criminal penalties upon persons violating the federal anti-kickback provisions with respect to private health care benefit programs. It will also authorize the Attorney General to bring civil actions in U.S. District Courts to impose civil penalties and treble damages on violators. There will be no diminution of the existing authority of any agency of the U.S. Government to administer and enforce the criminal laws of the United States.

Extending Subpoena And Injunction Authority—Medicare's ability to gather evidence in fraud and abuse cases would be strengthened by extending the Secretary's testimonial subpoena power and injunctive authority for civil monetary penalties to other administrative sanctions such as exclusions from the program.

Stopping Abusive Billings for Services Ordered by Excluded Providers—While current law provides for penalties against billing for services directly rendered by a provider who has been excluded from Medicare for criminal or other serious violations, no such authority exists for services or items prescribed or ordered by these providers. This provision would close the loophole by establishing civil monetary penalties for anyone who knows or should know that they are submitting claims for services ordered or prescribed by an excluded provider.

Combating Abuse of Hospice and Partial Hospitalization Benefits—Recent reviews have identified significant waste and abuse in the new Medicare partial hospitalizatio benefit. Abuse would be deterred by making a number of reforms to this benefit and authorize the Secretary to begin a prospective payment system. A new civil monetary penalty against doctors who knowingly provide false certification that an individual meets Medicare requirements to receive these services would also be established. A similar provision already exists for false certification of home health services.

Protecting Medicare Against Bankruptcy Abuses—Under current law it is possible for providers to use bankruptcy as a shield against Medicare and Medicaid penalties and overpayment recoveries. This provision would protect Medicare in a number of ways, including: A provider would still be liable to refund overpayments and pay penalties and fines even if he or she filed for bankruptcy. If Medicare law and bankruptcy law conflict, Medicare law would prevail. Bankruptcy courts would not be able to re-adjudicate Medicare coverage or payment decisions.

Ensuring Medicare Does Not Pay for Claims Owed by Other Plans—Too often, Medicare pays claims that are owed by private insurers because it has no way of knowing a beneficiary is working and has private insurance that should pay first. This provision would reduce Medicare losses by requiring insurers to report any Medicare beneficiaries they insure. Also, Medicare would be given the authority to recover double the amount owed by insurers who purposely let Medicare pay claims they should have paid.

Improving Coordination with Private Sector in Combating Medicare Fraud—Often, those ripping off Medicare are also defrauding private health plans. Yet, too little information on fraud cases is shared between Medicare and private plans. In order to encourage better coordination, health plans and their employees could not be held liable for sharing information with Medicare regarding health care fraud as long as the information is not false, or the person providing the information had no reason to believe the information was false.

Self-Funding Plan for Medicare Provider and Supplier Agreements—In order to provide the resources necessary to stop bogus or unqualified providers from billing Medicare, the Secretary may impose fees for the initial and or renewal of provider agreements. This will allow for more on-site visits of those seeking provider numbers to assure that the provider or supplier actually exists and is legitimate.

Balanced Budget Act Technical Changes—Several technical changes to Balanced Budget Act provisions relating to health care fraud are made.•

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2336. A bill to amend chapter 5 of title 28, United States Code, to transfer Schuylkill County, Pennsylvania, from the Eastern Judicial District of Pennsylvania to the Middle Judicial District of Pennsylvania; to the Committee on the Judiciary.

UNITED STATES DISTRICT COURT LEGISLATION

• Mr. SANTORUM. Mr. President, today I introduce legislation transferring Schuylkill County from the Eastern Judicial District of Pennsylvania to the Middle District. I am pleased to work on this needed effort with the senior Senator from Pennsylvania Senator SPECTER, who has signed on as an original cosponsor.

Many of the residents of Schuylkill County have voiced concern about the hardship they face in performing jury duty as they are often forced to travel as far as Philadelphia. Most of the counties adjacent to Schuylkill County are in the Middle District, where courtrooms are generally twice as close as those in Philadelphia. In addition, transferring Schuylkill County will help relieve the Eastern District of its much larger caseload.

Both the Chief Judge of the Eastern District, Edward Cahn, and of the Middle District, Sylvia Rambo, have raised no objections with this transfer. The Schuylkill County Bar Association, the Schuylkill County District Attorney, and numerous judges and attorneys have expressed strong support.

This legislation serves as a companion bill to H.R. 2123, a bill introduced by my esteemed colleague in the House of Representatives, Representative TIM HOLDEN, whose district includes Schuylkill County. Representative HOLDEN has worked diligently on passage of his bill for over a year, including a successful effort at incorporating its provisions into the Federal Courts Improvement Act of 1998, H.R. 2294, which passed the House on March 18, 1998. I congratulate my colleague on his success. Now, it is the responsibility of myself and Senator SPECTER to shepherd this legislation through the Senate.

I look forward to working with the Chairman of the Judiciary Committee, Senator HATCH, and the Ranking Member, Senator LEAHY, and the rest of my colleagues in securing passage of much needed legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF COUNTY.

Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking "Philadelphia, and Schuylkill" and inserting "and Philadelphia"; and

(2) in subsection (b) by inserting "Schuylkill," after "Potter,".

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b) PENDING CASES NOT AFFECTED.—This Act and the amendments made by this Act shall not affect any action commenced before the effective date of this Act and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(c) JURIES NOT AFFECTED.—This Act and the amendments made by this Act shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this Act.•

By Mr. SMITH of Oregon (for himself, Mr. WYDEN, Mr. CRAIG, Mr. GRAHAM, Mr. GORTON, Mr. BUMPERS, Mr. HATCH, Mr. MCCONNELL, and Mr. MACK):

S. 2337. A bill to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers, and for other purposes; to the Committee on the Judiciary.

AGRICULTURE JOB OPPORTUNITY BENEFITS AND SECURITY ACT OF 1998

Mr. CRAIG. Mr. President, today legislation is being introduced by my colleague from Oregon, GORDON SMITH, along with Senators WYDEN, GRAHAM of Florida, GORTON, BUMPERS, and MCCONNELL. This bill would deal with a situation that is a problem today and could well be a crisis tomorrow. The Senate now has an opportunity to do what our Federal Government does all too rarely, and that is fix a problem in a timely and commonsense fashion before it inflicts great hurt on millions of Americans.

Mr. President, I am talking about agricultural growers and their need for a stable, predictable, legal workforce that would receive good, fair, market-based compensation.

I am talking about unemployed workers and those hoping to move from welfare to work, who want and need to be matched up with agricultural jobs, if possible. American citizens should have first claim to American jobs. All workers would rather be working legally and know they can claim full legal protections only when their employment situation is open and lawful.

Farm employers need to be provided with a secure work force. Workers need to be assured of basic legal and labor standard protections.

These goals are not being met today. In fact, current federal law, and its bureaucratic implementation, are hurting growers and workers.

In fact, current Federal laws and their bureaucratic implementation are hurting both growers and workers. This is why I am pleased to join with my colleagues in the introduction of what we will call AgJOBS. This stands for the Agricultural Job Opportunity, Benefits and Security Act.

This bill will represent the culmination of work that has been going on for years amongst our colleagues, to resolve the issue of the necessary labor force for American agriculture. We have examined all of the issues involved with trying to ensure a supply of legal temporary and seasonal labor. We understand that that employers in many cases need guest workers and that employees, domestic and guest workers, need more and better jobs. We have looked at all sides. The result is a consensus bill that we think is nothing less than remarkable, and I commend my colleagues on this very important bipartisan effort.

The key elements of our bipartisan proposal would include the following: The creation of a new, voluntary, national registry of migrant farm workers to which growers can turn for workers they know are legal. If enough domestic workers could not be supplied through the registry, growers could apply for legal guest workers through an expedited, reformed H–2A program. The new program would resemble the current H–2A program, but it would have much, much faster turnaround, less red tape, and greater certainty for employers, continued protections for workers, and greater flexibility for employers, related to conditions of employment such as housing, transportation, and market-based wages.

The crisis is at hand not only on the farm but with the worker who is attempting to get across our borders today. With the tremendous heat in the South right now, there are warnings out to workers hoping for a job opportunity in this country: Do not try to traffic the area or you could die—simply by using the transportation methods in which so many workers are travelling today. Current law has created a phenomenal situation that is most inhumane.

Two years ago, Senators WYDEN, GORTON, and others joined with me in requiring the General Accounting Office to study the current H–2A Guest Worker Program.

As a result, the GAO has estimated that at least 37 percent of all farm workers in the United States are not here legally, not legally qualified to work. How they got the figure is amazing: They went out and asked, and the workers, by self-disclosure, admitted that they were here illegally.

The current H–2A program has been a red tape nightmare.

Too often, when growers need a timely response to their needs, with produce in the field, it cannot be done.

Even when growers meet all the deadlines the Government sets for them, then the Government fails to meet its own deadlines. In fact, GAO's study found that, when growers made timely applications, the Department of Labor still missed statutory deadlines 40 percent of the time.

The bureaucracy grinds to a halt sometimes because it doesn't understand the needs in the field, and sometimes because it doesn't want to supply the workforce.

Current H–2A has been completely ineffective as a means of obtaining temporary and seasonal workers, supplying only about 24,000 out of the 1.6 million farm workers necessary on an annual basis.

In the 1996 immigration law, and in appropriations over recent years, Congress has made it a priority to secure our borders and crack down on illegal immigrants.

That is exactly what we want and what our citizens want.

But as a result, serious spot shortages of farm labor are multiplying from Florida to New England, Kentucky to Colorado—to California and Idaho, and across the Nation.

For example, California growers and local officials have made a real effort to address the shortfall with welfare-to-work efforts. But it is not happening. We are at near full employment in our economy. People are simply not available to do agricultural-style work. And sometimes the needs of agriculture are uniquely not matched to the needs or capabilities of available domestic workers.

Because of the robust counterfeit ID industry and current Federal laws, we have many of these illegals moving into our country who are, in fact, carrying what appear to be legal credentials. Employers do not want that to happen, but the law actually punishes them if they are too diligent in inquiring about the legal status of job applicants. Current law has created an unwinnable Catch-22 for employers. Most have no realistic way of ensuring their work force is entirely legal.

A single Immigration and Naturalization Service raid, netting a handful of illegal workers, can scare and clean out thousands of workers in surrounding counties. It happened just a few weeks ago in the Georgia onion fields. The employers in such cases typically have complied with the law. But, of course, the crops were left rotting in the fields. That is not what the American farmer needs. It is certainly not what the American consumers need.

As workers disappear from U.S. fields, and crops stay there instead of moving to the stores, not only are the farmers hurt, as I mentioned, but consumers are hurt. And then we have to reach inevitably toward an effort to import foods, much of which may not meet our health and safety standards. This means a mainstay of our economy, the U.S. agriculture industry, is threatened with a major breakdown. This means that our families are threatened with the increased risk of exposure to food-borne illnesses on imported, foreign foods. And it happens simply because the current H–2A system won't supply the kind of labor that is necessary.

Let's be humane and let's be responsible. Let's move the AgJOBS bill introduced today, so it can be signed on the President's desk and become law this year. It is critically necessary that we do this.

We have reached out to the Department of Labor to work with them and be sensitive to their concerns in the crafting of this legislation to streamline the H–2A program. We have tried to anticipate and answer every objection that might be raised to this kind of reform. We have tried to solve problems before bringing this bill to the floor.

I thank my colleagues for this tremendous effort, especially Senator GORDON SMITH of Oregon, Senator WYDEN, Senator GRAHAM of Florida, and Senator GORTON, who have worked very closely, to make this legislation a reality.

We think this bill will create a win-win situation so those who wish to enter our country to work at our agricultural jobs can enter legally, so they can enter in a safe way instead of in the backs of trucks or almost literally in tin cans where, as a result of tragic accidents, they oftentimes lose their lives. We saw another tragic example of this in recent days.

We can do better. We can pass the AgJOBS reforms. I am pleased to be a part of the introduction of this legislation today.

Mr. SMITH of Oregon. Mr. President, I rise today with Senators WYDEN, CRAIG, GRAHAM of Florida, GORTON, BUMPERS, HATCH, MCCONNELL, and MACK to introduce the Agricultural Job Opportunity Benefits and Security Act of 1998, also known as AgJOBS. Our bill will create a streamlined guest worker program to allow for a reliable supply of legal, temporary, agricultural workers.

Mr. President, we are facing a crisis in agriculture—a crisis born of an inadequate labor supply. For many years, farmers and nurserymen have struggled to hire enough legal agricultural workers to harvest their produce and plants. The labor pool is competitive, especially in my state of Oregon, where jobs are many and domestic workers willing to do farm work are few. The General Accounting Office even confirmed that there have been local, regional and crop-based labor shortages and losses.

Labor intensive agriculture is the most rapidly growing area of agricultural production in this country and we can only expect the demand for agricultural labor jobs to continue to rise. When coupled with the lowest unemployment rates in decades and a crackdown on illegal immigration, the agriculture industry—and ultimately its consumers—face a crisis.

Currently, the H–2A program is the only legal, temporary, foreign agricultural worker program in the United States. This program is not practicable for the agriculture and horticulture industries because it is loaded with burdensome regulations, excessive paperwork, a bureaucratic certification process and untimely and inconsistent decision-making by the U.S. Department of Labor. Also, as reported by the recent Department of Labor Inspector General, the H–2A program does not meet the interests of domestic workers because it does a poor job of placing domestic workers in agricultural jobs.

I am proud to announce legislation that is the product of a bipartisan effort put forth today by several of my colleagues. With their help, we have been able to develop a consensus solution that will create a workable system for recruiting workers domestically and preventing crops from rotting in the fields. The bipartisan support for this bill reflects months of hard work by members of both parties.

Mr. President, as we introduce this balanced bill, we have two goals in mind—to make it easier for employers to hire legal workers to harvest their crops, and to ensure that workers are treated fairly in the process. These workers deserve the dignity of legal status when they are here doing work that benefits all of us.

I'm very concerned that workers are protected, but let's not forget that growers have been victimized by this process too. In order to feed their families—and ours—the growers need to harvest their crops on time, meet payroll, and ultimately maintain their bottom line. Without achieving those things, farms go out of business and the jobs they create are lost along with them. So it is in all of our best interests—workers, growers, and consumers alike—that growers have the means by which to hire needed workers. I believe our legislation will help achieve that goal.

Mr. President, let me briefly summarize the improvements our bill makes over the current H–2A program.

First and foremost, all of the labor protections currently in place for workers have been preserved. In fact, they have been improved substantially. Domestic workers under the new program will now receive unemployment insurance and all complaints filed by workers will be investigated by the Department of Labor. Also, foreign workers under the new program will retain their ability to transfer to other H–2A farms once they've completed work with their current employer. These provisions will ensure that the rights of workers—both foreign and domestic—continue to be protected.

We've also improved the housing provision in the existing H–2A program, currently another barrier for many farmers. For instance, in my state of Oregon, our strict land use laws prohibit building on farm land. This

means that many farms do not have housing to offer and therefore cannot use the H–2A program. Under our new bill, we allow employers the option of providing a housing allowance to workers if housing cannot be provided. This change will make it possible for many more farmers to use the guest worker program, and guest workers will still receive housing benefits.

To be fair to domestic workers, we also created a process that would make agriculture jobs available to them first. The bureaucratic and untimely labor certification process of the H–2A program will be replaced by a registry which uses existing DOL job bank computers to match domestic workers seeking jobs with employers seeking workers. If job openings still exist, then employers will be allowed to bring in temporary foreign workers to fill the open jobs.

In order for employers to offer these and other protections, the program has to be more practical to use. In our bill, we have streamlined the impractical time-frame requirements for applying to the program. Currently, farmers must apply for H–2A workers 60 days before they think they will need workers. In a very unpredictable industry, this requirement is a barrier for many farmers. In our bill, we have reduced this time period to 21 days, making the program much more responsive to the unpredictable nature of agriculture crops and much more practical for use by farmers.

Our legislation makes many other improvements to the existing H–2A program—for both employers and workers. As a result, we can expect more growers to use it, and consequently, we can expect more domestic and foreign workers to benefit from the ample wage and labor protections afforded by it.

Let's not make fugitives out of farmworkers and felons out of farmers. That is the effect of our current guest worker program.

I urge my fellow colleagues to join Senators WYDEN, CRAIG, GRAHAM, GORTON, BUMPERS, HATCH, FEINSTEIN, MCCONNELL, MACK and me as we introduce this important bipartisan legislation.

Mr. President, I ask unanimous consent that this legislation, along with the list of over 100 agriculture-related associations that endorse this bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Job Opportunity Benefits and Security Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) ADVERSE EFFECT WAGE RATE.—The term "adverse effect wage rate" means the rate of pay for an agricultural occupation that is 5-percent above the prevailing rate of pay for that agricultural occupation in an area of intended employment, if the average hourly equivalent of the prevailing rate of pay for the occupation is less than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture. No adverse effect wage rate shall be more than the prior year's average hourly earnings of field and livestock workers for the State (or region that includes the State), as determined by the Secretary of Agriculture.

(2) AGRICULTURAL EMPLOYMENT.—The term "agricultural employment" means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(3) ELIGIBLE.—The term "eligible" as used with respect to workers or individuals, means individuals authorized to be employed in the United States as provided for in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1188).

(4) EMPLOYER.—The term "employer" means any person or entity, including any independent contractor and any agricultural association, that employs workers.

(5) JOB OPPORTUNITY.—The term "job opportunity" means a specific period of employment for a worker in one or more specified agricultural activities.

(6) PREVAILING WAGE.—The term "prevailing wage" means with respect to an agricultural activity in an area of intended employment, the rate of wages that includes the 51st percentile of employees in that agricultural activity in the area of intended employment, expressed in terms of the prevailing method of pay for the agricultural activity in the area of intended employment.

(7) REGISTERED WORKER.—The term "registered worker" means an individual whose name appears in a registry.

(8) REGISTRY.—The term "registry" means an agricultural worker registry established under section 3(a).

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) UNITED STATES WORKER.—The term "United States worker" means any worker, whether a United States citizen, a United States national, or an alien who is authorized to work in the job opportunity within the United States other than an alien admitted pursuant to section 101(a)(15)(H)(ii)(a) or 218 of the Immigration and Nationality Act, as in effect on the effective date of this Act.

SEC. 3. AGRICULTURAL WORKER REGISTRIES.

(a) ESTABLISHMENT OF REGISTRIES.—

(1) IN GENERAL.—The Secretary of Labor shall establish and maintain a system of registries containing a current database of eligible United States workers who seek to perform temporary or seasonal agricultural work and the employment status of such workers—

(A) to ensure that eligible United States workers are informed about available agricultural job opportunities;

(B) to maximize the work period for eligible United States workers; and

(C) to provide timely referral of such workers to temporary and seasonal agricultural job opportunities in the United States.

(2) COVERAGE.—

(A) SINGLE STATE OR GROUP OF STATES.—Each registry established under paragraph (1) shall include the job opportunities in a single State, or a group of contiguous States that traditionally share a common pool of seasonal agricultural workers.

(B) REQUESTS FOR INCLUSION.—Each State requesting inclusion in a registry, or having any group of agricultural producers seeking to utilize the registry, shall be represented by a registry or by a registry of contiguous States.

(b) REGISTRATION.—

(1) IN GENERAL.—An eligible individual who seeks employment in temporary or seasonal agricultural work may apply to be included in the registry for the State or States in which the individual seeks employment. Such application shall include—

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the registry or registries on which the individual desires to be included;

(D) the specific qualifications and work experience possessed by the applicant;

(E) the type or types of temporary or seasonal agricultural work the applicant is willing to perform;

(F) such other information as the applicant wishes to be taken into account in referring the applicant to temporary or seasonal agricultural job opportunities; and

(G) such other information as may be required by the Secretary.

(2) VALIDATION OF EMPLOYMENT AUTHORIZATION.—No person may be included on any registry unless the Attorney General has certified to the Secretary of Labor that the person is authorized to be employed in the United States.

(3) WORKERS REFERRED TO JOB OPPORTUNITIES.—The name of each registered worker who is referred and accepts employment with an employer pursuant to section 5 shall be classified as inactive on each registry on which the worker is included during the period of employment involved in the job to which the worker was referred, unless the worker reports to the Secretary that the worker is no longer employed and is available for referral to another job opportunity. A registered worker classified as inactive shall not be referred pursuant to section 5.

(4) REMOVAL OF NAMES FROM A REGISTRY.—The Secretary shall remove from all registries the name of any registered worker

who, on 3 separate occasions within a 3-month period, is referred to a job opportunity pursuant to this section, and who declines such referral or fails to report to work in a timely manner.

(5) VOLUNTARY REMOVAL.—A registered worker may request that the worker's name be removed from a registry or from all registries.

(6) REMOVAL BY EXPIRATION.—The application of a registered worker shall expire, and the Secretary shall remove the name of such worker from all registries if the worker has not accepted a job opportunity pursuant to this section within the preceding 12-month period.

(7) REINSTATEMENT.—A worker whose name is removed from a registry pursuant to paragraph (4), (5), or (6) may apply to the Secretary for reinstatement to such registry at any time.

(c) CONFIDENTIALITY OF REGISTRIES.—The Secretary shall maintain the confidentiality of the registries established pursuant to this section, and the information in such registries shall not be used for any purposes other than those authorized in this Act.

(d) ADVERTISING OF REGISTRIES.—The Secretary shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

SEC. 4. EMPLOYER APPLICATIONS AND ASSURANCES.

(a) APPLICATIONS TO THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a United States worker through a search of the appropriate registry, in accordance with section 5. Such application shall—

(A) describe the nature and location of the work to be performed;

(B) list the anticipated period (expected beginning and ending dates) for which workers will be needed;

(C) indicate the number of job opportunities in which the employer seeks to employ workers from the registry;

(D) describe the bona fide occupational qualifications that must be possessed by a worker to be employed in the job opportunity in question;

(E) describe the wages and other terms and conditions of employment the employer will offer, which shall not be less (and are not required to be more) than those required by this section;

(F) contain the assurances required by subsection (c); and

(G) specify the foreign country or region thereof from which alien workers should be admitted in the case of a failure to refer United States workers under this Act.

(2) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

(A) IN GENERAL.—An agricultural association may file an application under paragraph (1) for registered workers on behalf of its employer members.

(B) EMPLOYERS.—An application under subparagraph (A) shall cover those employer members of the association that the association certifies in its application have agreed in writing to comply with the requirements of this Act.

(b) AMENDMENT OF APPLICATIONS.—Prior to receiving a referral of workers from a registry, an employer may amend an application under this subsection if the employer's need for workers changes. If an employer amends an application on a date which is later than 21 days prior to the date on which the workers on the amended application are sought to be employed, the Secretary may delay issuance of the report described in section 5(b) by the number of days by which the filing of the amended application is later than 21 days before the date on which the employer desires to employ workers.

(c) ASSURANCES.—The assurances referred to in subsection (a)(1)(F) are the following:

(1) ASSURANCE THAT THE JOB OPPORTUNITY IS NOT A RESULT OF A LABOR DISPUTE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is not vacant because a worker is involved in a strike, lockout, or work stoppage in the course of a labor dispute involving the job opportunity at the place of employment.

(2) ASSURANCE THAT THE JOB OPPORTUNITY IS TEMPORARY OR SEASONAL.—

(A) REQUIRED ASSURANCE.—The employer shall assure that the job opportunity for which the employer requests a registered worker is temporary or seasonal.

(B) SEASONAL BASIS.—For purposes of this Act, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

(C) TEMPORARY BASIS.—For purposes of this Act, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

(3) ASSURANCE OF PROVISION OF REQUIRED WAGES AND BENEFITS.—The employer shall assure that the employer will provide the wages and benefits required by subsections (a), (b), and (c) of section 7 to all workers employed in job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

(4) ASSURANCE OF EMPLOYMENT.—The employer shall assure that the employer will refuse to employ individuals referred under section 5, or terminate individuals employed pursuant to this Act, only for lawful job-related reasons, including lack of work.

(5) ASSURANCE OF COMPLIANCE WITH LABOR LAWS.—

(A) IN GENERAL.—An employer who requests registered workers shall assure that, except as otherwise provided in this Act, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) LIMITATIONS.—The disclosure required under section 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(6) ASSURANCE OF ADVERTISING OF THE REGISTRY.—The employer shall assure that the employer will, from the day an application for workers is submitted under subsection (a), and continuing throughout the period of employment of any job opportunity for which the employer has applied for a worker from the registry, post in a conspicuous place a poster to be provided by the Secretary advertising the availability of the registry.

(7) ASSURANCE OF CONTACTING FORMER WORKERS.—The employer shall assure that the employer has made reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any eligible worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for registered workers, and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous worker, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

(8) ASSURANCE OF PROVISION OF WORKERS COMPENSATION.—The employer shall assure that if the job opportunity is not covered by the State workers' compensation law, that the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(9) ASSURANCE OF UNEMPLOYMENT INSURANCE COVERAGE.—The employer shall assure that if the employer's employment is not covered employment under the State's unemployment insurance law, the employer will provide unemployment insurance coverage for the employer's United States workers at the place of employment for which the employer has applied for workers under subsection (a).

(d) WITHDRAWAL OF APPLICATIONS.—

(1) IN GENERAL.—An employer may withdraw an application under subsection (a), except that, if the employer is an agricultural association, the association may withdraw an application under subsection (a) with respect to one or more of its members. To withdraw an application, the employer shall notify the Secretary in writing, and the Secretary shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

(2) LIMITATION.—An application may not be withdrawn while any alien provided status under this Act pursuant to such application is employed by the employer.

(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

(e) REVIEW OF APPLICATION.—

(1) IN GENERAL.—Promptly upon receipt of an application by an employer under subsection (a), the Secretary shall review the application for compliance with the requirements of such subsection.

(2) APPROVAL OF APPLICATIONS.—If the Secretary determines that an application meets the requirements of subsection (a), and the employer is not ineligible to apply under paragraph (2), (3), or (4) of section 8(b), the Secretary shall, not later than 7 days after the receipt of such application, approve the application and so notify the employer.

(3) REJECTION OF APPLICATIONS.—If the Secretary determines that an application fails to meet 1 or more of the requirements of subsection (a), the Secretary, as expeditiously as possible, but in no case later than 7 days after the receipt of such application, shall—

(A) notify the employer of the rejection of the application and the reasons for such rejection, and provide the opportunity for the prompt resubmission of an amended application; and

(B) offer the applicant an opportunity to request an expedited administrative review or a de novo administrative hearing before an administrative law judge of the rejection of the application.

(4) REJECTION FOR PROGRAM VIOLATIONS.—The Secretary shall reject the application of an employer under this section if the employer has been determined to be ineligible to employ workers under section 8(b) or subsection (b)(2) of section 218 of the Immigration and Nationality Act (8 U.S.C. 1188).

SEC. 5. SEARCH OF REGISTRY.

(a) SEARCH PROCESS AND REFERRAL TO THE EMPLOYER.—Upon the approval of an application under section 4(e), the Secretary shall promptly begin a search of the registry of the State (or States) in which the work is to be performed to identify registered workers with the qualifications requested by the employer. The Secretary shall contact such qualified registered workers and determine, in each instance, whether the worker is ready, willing, and able to accept the employer's job opportunity and will commit to work for the employer at the time and place needed. The Secretary shall provide to each worker who commits to work for the employer the employer's name, address, telephone number, the location where the employer has requested that employees report for employment, and a statement disclosing the terms and conditions of employment.

(b) DEADLINE FOR COMPLETING SEARCH PROCESS; REFERRAL OF WORKERS.—As expeditiously as possible, but not later than 7 days before the date on which an employer desires work to begin, the Secretary shall complete the search under subsection (a) and shall transmit to the employer a report containing the name, address, and social security account number of each registered worker who has committed to work for the employer on the date needed, together with sufficient information to enable the employer to establish contact with the worker. The identification of such registered workers in a report shall constitute a referral of workers under this section.

(c) NOTICE OF INSUFFICIENT WORKERS.—If the report provided to the employer under subsection (b) does not include referral of a sufficient number of registered workers to fill all of the employer's job opportunities in the occupation for which the employer applied under section 4(a), the Secretary shall indicate in the report the number of job opportunities for which registered workers could not be referred, and promptly transmit a copy of the report to the Attorney General and the Secretary of State, by electronic or other means ensuring next day delivery.

SEC. 6. ISSUANCE OF VISAS AND ADMISSION OF ALIENS.

(a) IN GENERAL.—

(1) NUMBER OF ADMISSIONS.—The Secretary of State shall promptly issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities of the employer—

(A) upon receipt of a copy of the report described in section 5(c);

(B) upon receipt of an application (or copy of an application under subsection (b));

(C) upon receipt of the report required by subsection (c)(1)(B); or

(D) upon receipt of a report under subsection (d).

(2) PROCEDURES.—The admission of aliens under paragraph (1) shall be subject to the procedures of section 218A of the Immigration and Nationality Act, as added by this Act.

(3) AGRICULTURAL ASSOCIATIONS.—Aliens admitted pursuant to a report described in paragraph (1) may be employed by any member of the agricultural association that has made the certification required by section 4(a)(2)(B).

(b) DIRECT APPLICATION UPON FAILURE TO ACT.—

(1) APPLICATION TO THE SECRETARY OF STATE.—If the employer has not received a referral of sufficient workers pursuant to section 5(b) or a report of insufficient workers pursuant to section 5(c), by the date that is 7 days before the date on which the work is anticipated to begin, the employer may submit an application for alien workers directly to the Secretary of State, with a copy of the application provided to the Attorney General, seeking the issuance of visas to and the admission of aliens for employment in the job opportunities for which the employer has not received referral of registered workers. Such an application shall include a copy of the employer's application under section 4(a), together with evidence of its timely submission. The Secretary of State may consult with the Secretary of Labor in carrying out this paragraph.

(2) EXPEDITED CONSIDERATION BY SECRETARY OF STATE.—The Secretary of State shall, as expeditiously as possible, but not later than 5 days after the employer files an application under paragraph (1), issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities for which the employer has applied under that paragraph.

(c) REDETERMINATION OF NEED.—

(1) REQUESTS FOR REDETERMINATION.—

(A) IN GENERAL.—An employer may file a request for a redetermination by the Secretary of the needs of the employer if—

(i) a worker referred from the registry is not at the place of employment on the date of need shown on the application, or the date the work for which the worker is needed has begun, whichever is later;

(ii) the worker is not ready, willing, able, or qualified to perform the work required; or

(iii) the worker abandons the employment or is terminated for a lawful job-related reason.

(B) ADDITIONAL AUTHORIZATION OF ADMISSIONS.—The Secretary shall expeditiously, but in no case later than 72 hours after a redetermination is requested under subparagraph (A), submit a report to the Secretary of State and the Attorney General providing notice of a need for workers under this subsection.

(2) JOB-RELATED REQUIREMENTS.—An employer shall not be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful, job-related standards of conduct and performance, including failure to meet minimum production standards after a 3-day break-in period.

(d) EMERGENCY APPLICATIONS.—Notwithstanding subsections (b) and (c), the Secretary may promptly transmit a report to the Attorney General and Secretary of State providing notice of a need for workers under this subsection for an employer—

(1) who has not employed aliens under this Act in the occupation in question in the prior year's agricultural season;

(2) who faces an unforeseen need for workers (as determined by the Secretary); and

(3) with respect to whom the Secretary cannot refer able, willing, and qualified workers from the registry who will commit to be at the employer's place of employment and ready for work within 72 hours or on the date the work for which the worker is needed has begun, whichever is later.

(e) REGULATIONS.—The Secretary of State shall prescribe regulations to provide for the designation of aliens under this section.

SEC. 7. EMPLOYMENT REQUIREMENTS.

(a) REQUIRED WAGES.—

(1) IN GENERAL.—An employer applying under section 4(a) for workers shall offer to pay, and shall pay, all workers in the occupation or occupations for which the employer has applied for workers from the registry, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate.

(2) PAYMENT OF PREVAILING WAGE DETERMINED BY A STATE EMPLOYMENT SECURITY AGENCY SUFFICIENT.—In complying with paragraph (1), an employer may request and obtain a prevailing wage determination from the State employment security agency. If the employer requests such a determination, and pays the wage required by paragraph (1) based upon such a determination, such payment shall be considered sufficient to meet the requirement of paragraph (1).

(3) RELIANCE ON WAGE SURVEY.—In lieu of the procedure of paragraph (2), an employer may rely on other information, such as an employer-generated prevailing wage survey and determination that meets criteria specified by the Secretary.

(4) ALTERNATIVE METHODS OF PAYMENT PERMITTED.—

(A) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate, or other incentive payment method, including a group rate. The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed, except that, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

(B) COMPLIANCE WHEN PAYING AN INCENTIVE RATE.—In the case of an employer that pays a piece rate or task rate or uses any other incentive payment method, including a group rate, the employer shall be considered to be in compliance with any applicable hourly wage requirement if the average of the hourly earnings of the workers, taken as a group, the activity for which a piece rate, task rate, or other incentive payment, including a group rate, is paid, for the pay period, is at least equal to the required hourly wage.

(C) TASK RATE.—For purposes of this paragraph, the term "task rate" means an incentive payment method based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

(D) GROUP RATE.—For purposes of this paragraph, the term "group rate" means an incentive payment method in which the payment is shared among a group of workers working together to perform the task.

(b) REQUIREMENT TO PROVIDE HOUSING.—

(1) IN GENERAL.—An employer applying under section 4(a) for registered workers shall offer to provide housing at no cost (except for charges permitted by paragraph (5)) to all workers employed in job opportunities to which the employer has applied under that section, and to all other workers in the same occupation at the place of employment, whose permanent place of residence is beyond normal commuting distance.

(2) TYPE OF HOUSING.—In complying with paragraph (1), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or, in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation.

(3) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

(4) LIMITATION.—Nothing in this subsection shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

(5) CHARGES FOR HOUSING.—

(A) UTILITIES AND MAINTENANCE.—An employer who provides housing to a worker pursuant to paragraph (1) may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for maintenance and utilities, or such lesser amount as permitted by law.

(B) SECURITY DEPOSIT.—An employer who provides housing to workers pursuant to paragraph (1) may require, as a condition for providing such housing, a deposit not to exceed $50 from workers occupying such housing to protect against gross negligence or willful destruction of property.

(C) DAMAGES.—An employer who provides housing to workers pursuant to paragraph (1) may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

(6) REDUCED USER FEE FOR WORKERS PROVIDED HOUSING.—An employer shall receive a credit of 40 percent of the payment otherwise due pursuant to section 218(b) of the Immigration and Nationality Act on the earnings of alien workers to whom the employer provides housing pursuant to paragraph (1).

(7) HOUSING ALLOWANCE AS ALTERNATIVE.—

(A) IN GENERAL.—In lieu of offering housing pursuant to paragraph (1), subject to subparagraphs (B) through (D), the employer may on a case-by-case basis provide a reasonable housing allowance. An employer who offers a housing allowance to a worker pursuant to this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance.

(B) LIMITATION.—At any time after the date that is 3 years after the effective date of this Act, the governor of the State may certify to the Secretary that there is not sufficient housing available in an area of intended employment of migrant farm workers or aliens provided status pursuant to this Act who are seeking temporary housing while employed at farm work. Such certification may be canceled by the governor of the State at any time, and shall expire after 5 years unless renewed by the governor of the State.

(C) EFFECT OF CERTIFICATION.—If the governor of the State makes the certification of insufficient housing described in subparagraph (A) with respect to an area of employment, employers of workers in that area of employment may not offer the housing allowance described in subparagraph (A) after the date that is 5 years after such certification of insufficient housing for such area, unless the certification has expired or been canceled pursuant to subparagraph (B).

(D) AMOUNT OF ALLOWANCE.—The amount of a housing allowance under this paragraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State in which the employment occurs, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(c) REIMBURSEMENT OF TRANSPORTATION.—

(1) TO PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section 5(a), or an alien employed pursuant to this Act, who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, may apply to the Secretary for reimbursement of the cost of the worker's transportation and subsistence from the worker's permanent place of residence (or place of last employment, if the worker traveled from such place) to the place of employment to which the worker was referred under section 5(a).

(2) FROM PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section 5(a), or an alien employed pursuant to this Act, who completes the period of employment for the job opportunity involved, may apply to the Secretary for reimbursement of the cost of the worker's transportation and subsistence from the place of employment to the worker's permanent place of residence (or place of next employment, if the worker travels from the place of current employment to a subsequent place of employment and is otherwise ineligible for reimbursement under paragraph (1) with respect to such subsequent place of employment).

(3) LIMITATION.—

(A) AMOUNT OF REIMBURSEMENT.—Except as provided in subparagraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker or alien shall not exceed the lesser of—

(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

(ii) the most economical and reasonable transportation and subsistence costs that would have been incurred had the worker or alien used an appropriate common carrier, as determined by the Secretary.

(B) DISTANCE TRAVELED.—No reimbursement under paragraph (1) or (2) shall be required if the distance traveled is 100 miles or less.

(4) USE OF TRUST FUND.—Reimbursements made by the Secretary to workers or aliens under this subsection shall be considered to be administrative expenses for purposes of section 218A(b)(4) of the Immigration and Nationality Act, as added by this Act.

(d) ESTABLISHMENT OF PILOT PROGRAM FOR ADVANCING TRANSPORTATION COSTS.—

(1) IN GENERAL.—The Secretary shall establish a pilot program for the issuance of vouchers to United States workers who are referred to job opportunities under section 5(a) for the purpose of enabling such workers to purchase common carrier transportation to the place of employment.

(2) LIMITATION.—A voucher may only be provided to a worker under paragraph (1) if the job opportunity involved requires that the worker temporarily relocate to a place of employment that is more than 100 miles from the worker's permanent place of residence or last place of employment, and the worker attests that the worker cannot travel to the place of employment without such assistance from the Secretary.

(3) NUMBER OF VOUCHERS.—The Secretary shall award vouchers under the pilot program under paragraph (1) to workers referred from each registry in proportion to the number of workers registered with each such registry.

(4) REIMBURSEMENT.—

(A) USE OF TRUST FUND.—Reimbursements for the cost of vouchers provided by the Secretary under this subsection for workers who complete at least 50 percent of the period of employment of the job opportunity for which the worker was hired shall be considered to be administrative expenses for purposes of section 218A(b)(4) of the Immigration and Nationality Act, as added by this Act.

(B) OF SECRETARY.—A worker who receives a voucher under this subsection who fails to complete at least 50 percent of the period of employment of the job opportunity for which the worker was hired under the job opportunity involved shall reimburse the Secretary for the cost of the voucher.

(5) REPORT AND CONTINUATION OF PROGRAM.—

(A) COLLECTION OF DATA.—The Secretary shall collect data on—

(i) the extent to which workers receiving vouchers under this subsection report, in a timely manner, to the jobs to which such workers have been referred;

(ii) whether such workers complete the job opportunities involved; and

(iii) the extent to which such workers do not complete at least 50 percent of the period of employment the job opportunities for which the workers were hired.

(B) REPORT.—Not later than 6 months after the expiration of the second fiscal year during which the program under this subsection is in operation, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, a report, based on the data collected under subparagraph (A), concerning the results of the program established under this section. Such report shall contain the recommendations of the Secretary concerning the termination or continuation of such program.

(C) TERMINATION OF PROGRAM.—The recommendations of the Secretary in the report submitted under subparagraph (B) shall become effective upon the expiration of the 90-day period beginning on the date on which such report is submitted unless Congress enacts a joint resolution disapproving such recommendations.

(d) CONTINUING OBLIGATION TO EMPLOY UNITED STATES WORKERS.—

(1) IN GENERAL.—An employer that applies for registered workers under section 4(a) shall, as a condition for the approval of such application, continue to offer employment to qualified, eligible United States workers who

are referred under section 5(b) after the employer receives the report described in section 5(b).

(2) LIMITATION.—An employer shall not be obligated to comply with paragraph (1)—

(A) after 50 percent of the anticipated period of employment shown on the employer's application under section 4(a) has elapsed; or

(B) during any period in which the employer is employing no aliens in the occupation for which the United States worker was referred; or

(C) during any period when the Secretary is conducting a search of a registry for job opportunities in the occupation and area of intended employment to which the worker has been referred, or other occupations in the area of intended employment for which the worker is qualified that offer substantially similar terms and conditions of employment.

(3) LIMITATION ON REQUIREMENT TO PROVIDE HOUSING.—Notwithstanding any other provision of this Act, an employer to whom a registered worker is referred pursuant to paragraph (1) may provide a reasonable housing allowance to such referred worker in lieu of providing housing if the employer does not have sufficient housing to accommodate the referred worker and all other workers for whom the employer is providing housing or has committed to provide housing.

(4) REFERRAL OF WORKERS DURING 50-PERCENT PERIOD.—The Secretary shall make all reasonable efforts to place a registered worker in an open job acceptable to the worker, including available jobs not listed on the registry, before referring such worker to an employer for a job opportunity already filled by, or committed to, an alien admitted pursuant to this Act.

SEC. 8. ENFORCEMENT AND PENALTIES.

(a) ENFORCEMENT AUTHORITY.—

(1) INVESTIGATION OF COMPLAINTS.—

(A) IN GENERAL.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in section 4 or an employer's misrepresentation of material facts in an application under that section. Complaints may be filed by any aggrieved person or any organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, as the case may be. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) STATUTORY CONSTRUCTION.—Nothing in this Act limits the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers or, in the absence of a complaint under this paragraph, under this Act.

(2) WRITTEN NOTICE OF FINDING AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in subsection (b) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

(b) REMEDIES.—

(1) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(2) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this Act, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year.

(3) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an application under section 4(a) has—

(A) filed an application that misrepresents a material fact; or

(B) failed to meet a condition specified in section 4,

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation and may recommend to the Attorney General the disqualification of the employer for substantial violations in the employment of any United States workers or aliens described in section 101(a)(15)(ii)(a) of the Immigration and Nationality Act for a period of time determined by the Secretary not to exceed 1 year. In determining the amount of civil money penalty to be assessed, or whether to recommend disqualification of the employer, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

(4) PROGRAM DISQUALIFICATION.—

(A) 3 YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this Act or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act for a period of 3 years.

(B) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section, or committed other substantial violations under paragraph (3), the Secretary shall report such determination to the Attorney General, and the Attorney General shall disqualify the employer from any subsequent employment of aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

(c) ROLE OF ASSOCIATIONS.—

(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of this Act, as though the employer had filed the application itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

(2) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under subsection (b), no individual member of such association may be the beneficiary of the services of an alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files an application as an individual employer or such application is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this Act.

SEC. 9. ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS.

(a) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(1) ELECTION OF PROCEDURES.—Section 214(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(1)) is amended—

(A) by striking the fifth and sixth sentences;

(B) by striking "(c)(1) The" and inserting "(c)(1)(A) Except as provided in subparagraph (B), the"; and

(C) by adding at the end the following new subparagraph:

"(B) Notwithstanding subparagraph (A), in the case of the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a), the importing employer may elect to import the alien under the procedures of section 218 or section 218A, except that any employer that applies for registered workers under section 4(a) of the Agricultural Job Opportunity Benefits and Security Act of 1998 shall import nonimmigrants described in section 101(a)(15)(H)(ii)(a) only in accordance with section 218A. For purposes of subparagraph (A), with respect to the importing of nonimmigrants under section 218, the term 'appropriate agencies of Government' means the Department of Labor and includes the Department of Agriculture.".

(2) ALTERNATIVE PROGRAM.—The Immigration and Nationality Act is amended by inserting after section 218 (8 U.S.C. 1188) the following new section:

"ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H–2A WORKERS

"SEC. 218A. (a) PROCEDURE FOR ADMISSION OR EXTENSION OF ALIENS.—

"(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

"(A) CRITERIA FOR ADMISSIBILITY.—

"(i) IN GENERAL.—An alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall be admissible under this section if the alien is designated pursuant to section 6 of the Agricultural Job Opportunity Benefits and Security Act of 1998, otherwise admissible under this Act, and the alien is not ineligible under clause (ii).

"(ii) DISQUALIFICATION.—An alien shall be ineligible for admission to the United States or being provided status under this section if the alien has, at any time during the past 5 years—

"(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

"(II) otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

"(iii) INITIAL WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—An alien who has not previously been admitted to the United States pursuant to this section, and who is otherwise eligible for admission in accordance with clauses (i) and (ii), shall not be deemed inadmissible by virtue of section 212(a)(9)(B).

"(B) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the employer not to exceed 10 months, or the ending date of the anticipated period of employment on the employer's application for registered workers, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless an employer who is authorized to employ such worker has filed an extension of stay on behalf of the alien pursuant to paragraph (2).

"(C) ABANDONMENT OF EMPLOYMENT.—

"(i) IN GENERAL.—An alien admitted or provided status under this section who abandons the employment which was the basis for such admission or providing status shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(a) and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

"(ii) REPORT BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Attorney General within 7 days of an alien admitted or provided status under this Act who prematurely abandons the alien's employment.

"(D) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

"(i) IN GENERAL.—The Attorney General shall cause to be issued to each alien admitted under this section a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

"(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

"(I) specify the date of the alien's acquisition of status under this section;

"(II) specify the expiration date of the alien's work authorization; and

"(III) specify the alien's admission number or alien file number.

"(2) EXTENSION OF STAY OF ALIENS IN THE UNITED STATES.—

"(A) EXTENSION OF STAY.—If an employer with respect to whom a report or application described in section 6(a)(1) of the Agricultural Job Opportunity Benefits and Security Act of 1998 has been submitted seeks to employ an alien who has acquired status under this section and who is present in the United States, the employer shall file with the Attorney General an application for an extension of the alien's stay or a change in the alien's authorized employment. The application shall be accompanied by a copy of the appropriate report or application described in section 6 of the Agricultural Job Opportunity Benefits and Security Act of 1998.

"(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 3 years from the date of the alien's last admission to the United States under this section, whichever occurs first.

"(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien who is present in the United States who has acquired status under this Act on the day the employer files an application for extension of stay. For the purpose of this requirement, the term 'filing' means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of sending and receipt of the application. The employer shall provide a copy of the employer's application to the alien, who shall keep the application with the alien's identification and employment eligibility document as evidence that the application has been filed and that the alien is authorized to work in the United States. Upon approval of an application for an extension of stay or change in the alien's authorized employment, the Attorney General shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the application.

"(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility document, together with a copy of an application for extension of stay or change in the alien's authorized employment, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility document shall be acceptable.

"(E) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—An alien having status under this section may not have the status extended for a continuous period longer than 3 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which a nonimmigrant visa issued under section 101(a)(15)(H)(ii)(a) is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

"(b) TRUST FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund (in this section referred to as the 'Trust Fund') for the purpose of funding the costs of administering this section and, in the event of an adverse finding by the Attorney General under subsection (c), for the purpose of providing a monetary incentive for aliens described in section 101(a)(15)(H)(ii)(a) to return to their country of origin upon expiration of their visas under this section.

"(2) TRANSFERS TO TRUST FUND.—

"(A) IN GENERAL.—There is appropriated to the Trust Fund amounts equivalent to the sum of the following:

"(i) Such employers shall pay to the Secretary of the Treasury a user fee in an amount equivalent to so much of the Federal tax that is not transferred to the States on the earnings of such aliens that the employer would be obligated to pay under the Federal Unemployment Tax Act and the Federal Insurance Contributions Act if the earnings were subject to such Acts. Such payment shall be in lieu of any other employer fees for the benefits provided to employers pursuant to this Act or in connection with the admission of aliens pursuant to section 218A.

"(ii) In the event of an adverse finding by the Attorney General under subsection (c), employers of aliens under this section shall withhold from the wages of such aliens an amount equivalent to 20 percent of the earnings of each alien and pay such withheld amount to the Secretary of the Treasury.

"(B) TREATMENT OF AMOUNTS.—Amounts paid to the Secretary of the Treasury under subparagraph (A) shall be treated as employment taxes for purposes of subtitle C of the Internal Revenue Code of 1986.

"(C) TREATMENT AS OFFSETTING RECEIPTS.—Amounts appropriated to the Trust Fund under this paragraph shall be treated as offsetting receipts.

"(3) ADMINISTRATIVE EXPENSES.—Amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(ii), shall, without further appropriation, be paid to the Attorney General, the Secretary of Labor, the Secretary of State, and the Secretary of Agriculture in amounts equivalent to the expenses incurred by such officials in the administration of section 101(a)(15)(H)(ii)(a) and this section.

"(4) DISTRIBUTION OF FUNDS.—In the event of an adverse finding by the Attorney General under subsection (c), amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(ii), and interest earned thereon under paragraph (6), shall be held on behalf of an alien and shall be available, without further appropriation, to the Attorney General for payment to the alien if—

"(A) the alien applies to the Attorney General (or the designee of the Attorney General) for payment within 30 days of the expiration of the alien's last authorized stay in the United States;

"(B) in such application the alien establishes that the alien has complied with the terms and conditions of this section; and

"(C) in connection with the application, the alien tenders the identification and employment authorization card issued to the alien pursuant to subsection (a)(1)(D) and establishes that the alien is identified as the person to whom the card was issued based on the biometric identification information contained on the card.

"(5) MIGRANT AGRICULTURAL WORKER HOUSING.—Such funds as remain in the Trust Fund after the payments described in paragraph (4) shall be used by the Secretary of Agriculture, in consultation with the Secretary, for the purpose of increasing the stock of in-season migrant worker housing in areas where such housing is determined to be insufficient to meet the needs of migrant agricultural workers, including aliens admitted under this section.

"(6) REGULATIONS.—The Secretary of the Treasury, in consultation with the Attorney General, shall prescribe regulations to carry out this subsection.

"(7) INVESTMENT OF PORTION OF TRUST FUND.—

"(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(i), and, if applicable paragraph (2)(A)(ii), as is

not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

"(i) on original issue at the price; or

"(ii) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

"(B) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

"(C) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the amounts transferred to the Trust Fund pursuant to paragraph (2)(A)(i).

"(D) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Attorney General) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and a Senate document of the session of the Congress to which the report is made.

"(c) STUDY BY THE ATTORNEY GENERAL.—The Attorney General shall conduct a study to determine whether aliens under this section depart the United States in a timely manner upon the expiration of their period of authorized stay. If the Attorney General finds that a significant number of aliens do not so depart and that a financial inducement is necessary to assure such departure, then the Attorney General shall so report to Congress and, upon receipt of the report, subsections (b)(2)(A)(ii) and (b)(4) shall take effect.".

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking "specified in this paragraph" and inserting "specified in this subparagraph (other than in clause (ii)(a))".

(c) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 218 the following new item:

"Sec. 218A. Alternative program for the admission of H–2A workers.".

(d) REPEAL AND ADDITIONAL CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 218 of the Immigration and Nationality Act is repealed.

(2) TECHNICAL AMENDMENTS.—(A) Section 218A of the Immigration and Nationality Act is redesignated as section 218.

(B) The table of contents of that Act is amended by striking the item relating to section 218A.

(C) The section heading for section 218 of that Act is amended by striking "ALTERNATIVE PROGRAM FOR".

(3) TERMINATION OF EMPLOYER ELECTION.—Section 214(c)(1)(B) of the Immigration and Nationality Act is amended to read as follows:

"(B) Notwithstanding subparagraph (A), the procedures of section 218 shall apply to the importing of any nonimmigrant alien described in section 101(a)(15)(H)(ii)(a).".

(4) MAINTENANCE OF CERTAIN SECTION 218 PROVISIONS.—Section 218 (as redesignated by paragraph (2) of this subsection) is amended by adding at the end the following:

"(d) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

"(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.".

(5) EFFECTIVE DATE.—The repeal and amendments made by this subsection shall take effect 5 years after the date of enactment of this Act.

SEC. 10. INCLUSION IN EMPLOYMENT-BASED IMMIGRATION PREFERENCE ALLOCATION.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 203(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following:

"(iii) AGRICULTURAL WORKERS.—Qualified immigrants who have completed at least 6 months of work in the United States in each of 4 consecutive calendar years under section 101(a)(15)(H)(ii)(a), and have complied with all terms and conditions applicable to that section.".

(b) CONFORMING AMENDMENT.—Section 203(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(iv)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to aliens described in section 101(a)(15)(H)(ii)(a) admitted to the United States before, on, or after the effective date of this Act.

SEC. 11. MIGRANT AND SEASONAL HEAD START PROGRAM.

(a) IN GENERAL.—Section 637(12) of the Head Start Act (42 U.S.C. 9832(12)) is amended—

(1) by inserting "and seasonal" after "migrant"; and

(2) by inserting before the period the following: ", or families whose incomes or labor is primarily dedicated to performing seasonal agricultural labor for hire but whose places of residency have not changed to another geographic location in the preceding 2-year period".

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (2), strike "13" and insert "14";

(2) in paragraph (2)(A), by striking "1994" and inserting "1998"; and

(3) by adding at the end the following new paragraph:

"(8) In determining the need for migrant and seasonal Head Start programs and services, the Secretary shall consult with the Secretary of Labor, other public and private entities, and providers. Notwithstanding paragraph (2)(A), after conducting such consultation, the Secretary shall further adjust the amount available for such programs and services, taking into consideration the need and demand for such services.".

SEC. 12. REGULATIONS.

(a) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary and the Secretary of Agriculture on all regulations to implement the duties of the Attorney General under this Act.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Attorney General on all regulations to implement the duties of the Secretary of State under this Act.

SEC. 13. FUNDING FROM WAGNER-PEYSER ACT.

If additional funds are necessary to pay the start-up costs of the registries established under section 3(a), such costs may be paid out of amounts available to Federal or State governmental entities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

SEC. 14. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

ENDORSING ORGANIZATIONS

National Council of Agricultural Employers; American Farm Bureau Federation; AgriBank; Agricultural Affiliates, Inc.; Agricultural Council of California; Agricultural Producers; Allied Grape Growers; Almond Hullers & Processors Association, Inc.; American Mushroom Institute; American Nursery & Landscape Association; American Sheep Industry Association; Apple Growers of Dutchess County; California Apple Commission; California Association of Winegrape Growers; California Beet Growers Association; California Citrus Mutual; California Cherry Export Association; California Cotton Ginners & Growers Association; California Cotton Growers Association; California Cut Flower Commission; California Farm Bureau Federation; California Floral Council; California Grape & Tree Fruit League; California Tomato Growers Association; Colorado Onion Association; Colorado Sugarbeet Growers Association; Fagerberg Produce; Farm Credit Services of North Central Wisconsin; Florida Citrus Mutual; Florida Citrus Packers; Florida Citrus Processors Association; Florida Farm Bureau Federation; Florida Fruit & Vegetable Association; Florida Nurserymen & Growers Association; Florida Strawberry Growers Association; Frederick County Fruit Growers Association, Inc.; Fresno County Farm Bureau; Georgia Agribusiness Council, Inc.; Grower-Shipper Vegetable Association of Central California; Grower-Shipper Vegetable Association of San Luis Obispo & Santa Barbara Counties; Gulf Citrus Growers Association, Inc.; Hood River Grower-Shipper Association; Idaho Grower Shippers Association; Imperial Valley Vegetable Growers Association; Jackson County Fruit Growers League; Marsing Agriculture Labor Association; Michigan Asparagus Advisory Board; Michigan Farm Bureau; Midwest Food Processors

Association; Midwest Sod Council; National Christmas Tree Association; National Cotton Council of America; National Cotton Ginners' Association; National Watermelon Association; New England Apple Council; New Jersey Farm Bureau Federation; New York Apple Association, Inc.; New York Cherry Growers Association, Inc.; New York Farm Bureau; Nisei Farmers League; North Carolina Growers Association, Inc.; North Carolina Sweet Potato Commission, Inc.; Northern California Growers Association; Northern Christmas Trees & Nursery; Northwest Horticultural Council; Ohio Farm Bureau Federation, Inc.; Ohio Fruit Growers Society; Ohio Vegetable & Potato Growers Association; Olive Growers Council; Oregon Association of Nurserymen, Inc.; Oregon Farm Bureau Federation; Oregon Hop Growers Association; Oregon Raspberry & blackberry Commission; Oregon Strawberry Commission; Peach Commission; Raisin Bargaining Association; San Joaquin Valley Dairymen; Snake River Farmers Association; Society of American Florists; Sod Growers Association of Mid-America; South Carolina Farm Bureau Federation; Southeast Cotton Ginners Association, Inc.; Southeast Forestry Contractors' Association; Southern Cotton Growers Association; State Horticultural Association of Pennsylvania; Sugar Cane Growers Cooperative of Florida; Texas Cotton Ginners Association; Texas Produce Association; Turfgrass Producers International; United Fresh Fruit & Vegetable Association; United States Apple Association; United States Sugar Corporation; Vegetable Growers Association of New Jersey; Ventura County Agricultural Association; Wasco County Fruit & Produce League; Washington Growers Clearing House Association; Washington Growers League; Washington State Farm Bureau; Washington Women for Agriculture; Wenatchee Valley Traffic Association; Western Growers Association; Western Range Association; Western United Dairymen; Wisconsin Christmas Tree Producers; Wisconsin Farm Bureau; and Yakima Valley Grower-Shipper Association.

Mr. GORTON. Mr. President, a recent GAO report concluded that approximately one-third of the U.S. agricultural labor force in the United States is illegal. Many estimate that the percentage is in fact much higher. For too long, Congress has failed to respond to the lack of legal agricultural workers, and simply left on the books, and largely unused, a guestworker program that is too administratively complex and expensive to be workable. With recent crackdowns by INS, our farmers and growers face a labor shortage crisis. Congress must act, and it must act now.

I rise today, and join my colleagues on both sides of the aisle in introducing the Agricultural Job Opportunity Benefits and Security Act of 1998, a bill to address this problem. This legislation is long past due and urgently needed. As the Senator from Florida described earlier today, the bill is a win-win-win proposition. It is a win for farmers and growers because it provides them a method of obtaining a legal, reliable workforce. It is a win for workers both domestic and foreign. For domestic workers, the bill, through a work registry, gives them first preference on jobs, benefits above those they are currently receiving, and continued employment by ensuring that American farms remain economically viable and that production is not lost to other countries. For foreign workers, the bill provides the dignity, freedom from fear, and mobility that attends a legal status, as well as significant worker protection and benefits. Finally, the bill is a win for consumers because it ensures them a ready, affordable supply of American agricultural products. I applaud this carefully considered, balanced legislation and will work actively for its quick enactment.

Mr. MCCONNELL. Mr. President, the Kentucky Farm Bureau and the hundreds of farmers that I met with on my recent farm belt tour convinced me that one of the most pressing issues facing Kentucky farmers is the problem of finding legal, migrant farm workers.

Kentucky farmers depend heavily on migrant agricultural workers that come to Kentucky under H–2A visas to help harvest tobacco and other crops. Kentucky depends on the H–2A visa program more than every other state, except North Carolina and Virginia.

The current H–2A process is slow, tedious and complex. It subjects farmers to unreasonable costs, excessive bureaucracy, and mountains of paperwork.

To add to the injustice, farmers are faced with frivolous lawsuits and IRS raids—often at the peak time of the harvest.

The Agriculture Job Opportunity Benefits and Security Act would lift the unfair burdens placed on farmers by reforming the H–2A visa program and reducing: the mountains of paperwork, the excessive bureaucracy, and the unfair threats of frivolous litigation.

In order to get migrant workers, a Kentucky farmer has to find his way through the Kentucky Department of Labor, the U.S. Department of Labor, and the Immigration and Naturalization Service—paying fees and filling out cumbersome, confusing paperwork all along the way.

Most farmers will tell you that it's easier to wade through the tax code and file a 1040 tax form every year than it is to slog through multiple government agencies and mountains of paperwork just to hire a migrant farm worker to help bale hay.

In fact, the Department of Labor needs a 325-page handbook to help farmers find their way to migrant farm workers. The Government Accounting Office managed to get through this handbook and found it to be outdated, incomplete and very confusing.

You shouldn't have to hire a lawyer just to hire a migrant farmer.

I'd like to take a couple of minutes to walk through some of the common problems faced by farmers and the common sense solutions offered by the bill we are introducing today.

Problem: Farmers are hesitant to use the process because it is too slow and complicated.

Solution: A simplified, streamlined H–2A visa program would encourage more farmers to go through the system to hire legal migrant farm workers.

Problem: Farmers must pay multiple fees, go through multiple agencies, and fill-out multiple documents.

Solution: A Department of Labor computer registry would be established to replace the current cumbersome and bureaucratic process. Farmers would submit a simple form asking for a certain number of workers at a specified time. If there is an insufficient number of domestic workers available, then the DOL would contact the INS to initiate an expedited visa approval process for migrant farm workers. (All program costs would be paid for by employer user fees.)

Problem: Farmers must apply for workers 60 days in advance—even though they may not know exactly how many workers they will need or exactly when they will need them.

Solution: Farmers do not have to begin process two months in advance. They may apply any time prior to actually hiring foreign workers. The total process from initial application to actual hiring should take no more than 21 days.

Problem: DOL slows the process by failing to timely process applications. A GAO study found that DOL missed statutory deadlines in at least 40 percent of the cases.

Solution: Farmers do not have to wait for DOL. If the DOL does not either meet the deadline or issue a specific objection, then the INS is authorized to go ahead and issue visas for migrant workers.

Problem: Farmers have to spend hundreds of dollars advertising in the newspaper or on the radio to prove what they already know—that is, there is a shortage of domestic workers who will labor in the fields.

Solution: Farmers will not be required to engage in costly radio and newspaper advertising, but may recruit domestic workers by simply using the existing DOL job bank for available domestic workers. DOL will match domestic workers with jobs.

Problem: Farmers are required to pay wages that are often higher than both the minimum wage and the prevailing wage because the legal wage is calculated based on wages paid for all farming jobs, not the specific job in which the migrant worker employed.

Solution: Farmers would not have to pay exorbitant wages to migrant farm workers. They would be required to pay wages only up to the prevailing wage for the type of occupation in which the grower is actually employed. The wage

would not be based on the wages earned by all persons in all farming jobs.

Problem: Farmers are faced with the threat of frivolous litigation for failing to meet vague and open-ended statutory and regulatory requirements.

Solution: The threat of litigation would be reduced by removing unfair burdens on farmers and by clearly spelling out statutory requirements.

Finally, let me respond to the critics of this compromise bill.

Critics wrongly claim the new alternative program has no labor protections.

The alternative program provides foreign and domestic workers with all the labor protections of federal and state labor laws. In addition, it imposes special obligations on participating employers such as payment of at least the prevailing wage.

The pilot program is modeled after the existing H–1B program for specialty and high-tech occupations. It requires employers to recruit domestic workers, and assures that domestic workers receive first preference for jobs.

Finally, the new program provides strict penalties for employers who fail to meet labor standards, including fines, back wages, and debarment from future program participation.

I wanted to commend the bipartisan group of Senators, led by GORDON SMITH, who have worked together to craft a comprehensive and meaningful solution for our nation's farmers.

I was proud to be a cosponsor of Senator SMITH's original bill, S. 1563, and am equally pleased to be a part of this compromise bill.

I look forward to working with the American Farm Bureau and the Kentucky Farm Bureau to move this bill in the Senate as soon as possible.

Mr. GRAHAM. Mr. President, I rise today to join my colleagues in introducing legislation that will simplify and streamline one of the most frustrating aspects in the life of a farmer: Finding qualified, legal farmworkers.

There are two large issues that cause this problem: (1) According to the December 1997 GAO report, there are at least 600,000 farm workers in the United States illegally—and most have false, but realistic-looking, documents.

The farmer can go to extreme lengths to verify his workforce, and still be vulnerable to INS enforcement action.

Our bill, through an Agricultural Registry of workers, ensures that a farmer is able to get a legal, reliable workforce, and our bill ensures that these American workers are paid a premium wage and receive the benefits that they deserve.

(2) Under the current system, if a farmer cannot find available American workers and does need to find temporary foreign help through H–2A visas, he or she must navigate a maze of complex regulations, so much so that it takes a 300-page guidebook to explain the process.

He or she also has little assurance that, even after successfully completing the forms and initiating the process, that the Department of Labor will approve or deny the petitions in a timely manner.

It may seem notable that we are all here together, in a bipartisan manner, from every geographic region of our great Nation.

In the past, discussion of the H–2A program has broken down into a partisan, polarized, gridlocked debate, and no one wins. Wages are still low for workers, and growers still need legal reliable help.

I commend my colleagues, Senator WYDEN, Senator BUMPERS, Senators SMITH, CRAIG, and GORTON for helping bring common sense reality to the table, and together, crafting a bill that helps all sides.

I thank Senator ABRAHAM for holding a fair, educational and timely hearing on this issue, and for bringing all sides together to discuss what works and what doesn't work under the current system.

We, as a bipartisan group, want to accomplish several goals, and I ask my colleagues in the Senate to support what we feel will bring order to the current chaos, bring honor to the farming community, and bring needed benefits to hard working farmworkers. Our goals are simple:

1. Make the H-2A system simple. With our agricultural registry, anyone can start the process by picking up the phone.

Turnaround time can be counted in minutes and hours instead of weeks or months. Give our farmers the chance to choose between legal domestic workers, and legal foreign workers, with the domestic workers getting the first choice at all jobs. But the choice can be made to have a legal workforce.

2. Ensure that American workers get the first choice of every job opening. Under the Registry system—not a single foreign worker will come to the United States until every domestic worker on the Registry is employed in the area he or she has requested.

American farmworkers will be able to easily link together a year's worth of work—moving from Florida to Kentucky to New England, if that is what they want.

3. Ensure that American workers receive premium wages and benefits. Under the Registry program, every legal domestic worker is guaranteed at least prevailing wage, plus a 5 percent premium.

The growers will pay a higher price than they may be paying currently, but they have the added value of knowing with certainty that they are not vulnerable to INS enforcement action. Registry workers also will receive housing benefits, either on-site housing, or a housing allowance.

4. Put a stop to the horrible practice of smuggling human lives. Under the current state of affairs, every day, human beings are dying—crammed into the back of vans, dehydrating in the California deserts, or murdered for the thousand dollars they are willing to pay for a secretive trip across the border and a set of false documents.

They are drawn here by the jobs, many of them farmwork jobs. They put their lives on the line to work in an underground economy. They keep food on our table, and our economy growing.

Let us take this underground system above ground. Offer a simple, reliable way to bring temporary, legal foreign workers here, paid at wages that will not disadvantage any American workers and protected by all labor laws and standards.

5. Don't hurt any other immigration category. All of this can be accomplished without taking away from any current immigration numbers.

H-2A workers workers, by definition, are in our country for temporary, seasonal work—and they return home when the job is done. They will not swell the population of the United States, or become a burden on our social safety net.

They will work side by side with the domestic workforce in one of the most important, but difficult, jobs in our society: putting fresh fruit, fresh vegetables, perishable delicacies on our plates each and every meal.

Please join me in this bipartisan effort to simplify this complex system.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, and Mr. SPECTER):

S. 2338. A bill to amend the Harmonized Tariff Schedule of the United States to provide for equitable duty treatment for certain wool used in making suits; to the Committee on Finance.

LEGISLATION TO PROVIDE EQUITABLE TREATMENT FOR CERTAIN WOOL FABRIC

• Mr. MOYNIHAN. Mr. President, today I introduce a bill to correct a glaring competitive imbalance that has arisen because of an anomaly in our tariff schedule. Hickey-Freeman has produced fine tailored suits in Rochester, New York since 1899. Nearly a century. However, the U.S. tariff schedule currently makes it difficult for Hickey-Freeman to continue producing such suits in the United States.

The facts are straight-forward. Companies like Hickey-Freeman that must import the very high quality wool fabric used to make men's and boys' suits pay a tariff of 31.7 percent. They compete with companies that import finished wool suits from a number of countries. If these imported suits are from Canada, the importers pay no tariff whatever. If the suits are imported from Mexico, the tariff is 11 percent. From other countries, the importers pay a duty of 20.2 percent. Clearly, domestic manufacturers of wool suits are

put at a significant price disadvantage. Indeed, the tariff structure provides an incentive to import finished suits from abroad, rather than manufacture them in the United States.

The bill I am introducing today, along with Senators D'AMATO and SPECTER, would correct this problem, at least temporarily. It suspends through December 31, 2004 the duty on the finest wool fabrics (known in the trade as Super 90s or higher grade—fabrics that are produced in only very limited quantities in the United States. And it would reduce the duty for slightly lower grade but still very fine wool fabric (Super 70's and Super 80's) to 20.2 percent—the same duty as on finished wool suits. The bill also provides that, in the event the President proclaim a duty reduction on wool suits, corresponding changes would be made to the tariffs applicable to 'Super 70's' and 'Super 80's' grade wool fabric.

This bill would correct a troublesome tariff inversion that puts U.S. wool suit producers at a serious competitive disadvantage. It is a small step toward modifying a tariff schedule that favors foreign producers of wools suits at the expense of U.S. suit makers. I therefore urge my colleagues to join me in supporting its adoption, and ask for unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DUTY TREATMENT OF CERTAIN FABRICS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(1) by adding at the end of the U.S. notes the following new note:

"13. For purposes of headings 9902.51.11 and 9902.51.12, the term 'suit' has the same meaning such term has for purposes of headings 6203 and 6204."; and

(2) by inserting in numerical sequence the following new headings:

"9902.51.11	Fabrics, of carded or combed wool or fine animal hair, all the foregoing certified by the importer as 'Super 70's' or 'Super 80's' intended for use in making suits, suit-type jackets or trousers (provided for in subheadings 5111.11.70, 5111.19.60, 5112.11.20, or 5112.19.90) ...	20.2%	No change	No change	On or before 12/31/2004
9902.51.12	Fabrics, of carded or combed wool or fine animal hair, all the foregoing certified by the importer as 'Super 90's' or higher grade intended for use in making suits, suit-type jackets or trousers (provided for in subheadings 5111.11.70, 5111.19.60, 5112.11.20, or 5112.19.90) ...	Free	Free (CA, IL, MX)	No change	On or before 12/31/2004".

(b) STAGED RATE REDUCTION.—Any staged reduction of a rate of duty set forth in heading 6203.31.00 of the Harmonized Tariff Schedule of the United States that is proclaimed by the President shall also apply to the corresponding rate of duty set forth in heading 9902.51.11 of such Schedule (as added by subsection (a)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.•

• Mr. D'AMATO. Mr. President, today I support this important legislation to eliminate tariff duties on certain wool fabrics. Currently, there exists a disparity in the tariff schedule which forces companies like Hickey-Freeman, in Rochester, New York and Learbury in Syracuse, New York, who import very high quality wool fabric, to pay a tariff of 31.7 percent.

These same finished suits imported from Canada come into the United States tariff free. If the suits are imported from Mexico, there is an 11 percent tariff and from other countries, the tariff rate is 20.2 percent. This inverted tariff schedule actually provides an incentive to import suits rather than produce them here in the United States with domestic labor and domestic wool.

This straightforward, clear legislation would suspend through December 31, 2004 the duty on the finest wool fabrics (known specifically as Super 90s weight or higher grade wool). These higher quality fabrics are produced in very limited quantities in the United States, so this tariff reduction would have no negative impact on domestic producers.

Clearly, if there were enough of this wool fabric produced domestically, there would be no need for this legislation since suitmakers would not need to import wool and pay the extortionately high rate of 31.7 percent. Indeed, if the U.S. suit manufacturing industry is allowed to compete fairly with imported suits, and not forced to reduce costs just to pay for inverted tariff rates, domestic wool use will actually increase with the additional suits that will be manufactured in the United States.

Additionally, the provision would reduce the duty for slightly lower grade, fine wool fabric (Super 70s and 80s) to 20.2 percent—the same duty as on finished wool suits.

Mr. President, under current law, if two fabric buyers, one American and the other Canadian, purchase fabric from a foreign country, say Italy, they each pay the exact same price. Yet when they bring the fabric back to their country to be made into suits that is where the problem occurs.

The American is forced to pay a tariff of 31.7 percent on the imported fabric, which then must be absorbed into the cost of the suit, or eaten by the manufacturer. The Canadian buyer pays no tariff. Additionally, the Canadian suit maker can then export to the U.S., and because of the NAFTA agreement, they pay no tariff. As a result, Canadian shipments of men's suits into the United States has gone from 0 to 1.5 million in only ten years.

Mr. President, I am extremely concerned with the current wool tariff because this inverted tariff policy has negatively impacted U.S. jobs. U.S. production has fallen by 40 percent and jobs by 50 percent. And, Mr. President, this additional tariff raises the costs for consumers as well.

I am proud to join with Senators MOYNIHAN and SPECTER in this important legislation, and look forward to its early passage and enactment into law.•

• Mr. SPECTER. Mr. President, today I join my colleagues, Senators DANIEL PATRICK MOYNIHAN and ALFONSE D'AMATO, to introduce a bill that will keep high paying jobs in the domestic tailored wool apparel industry in America. This bill will suspend the duty on certain high quality wool fabrics used in American garment manufacturing.

The duty rates on imported wool fabrics continued to be among the highest rates imposed on products in the U.S. tariff schedules. Because the duty on these fabrics exceeds the duty on imported garments by about 20 percent, the duty schedule penalizes those American companies which keep their production here in the U.S.

A special "finished product" concession made in the Canada Free Trade Agreement (and later NAFTA) has greatly exacerbated the problem. The concession allows Canadian companies to use imported, duty-free wool fabric to manufacture men's suits, which are in turn shipped duty-free into the U.S. As a result, over the past decade Canadian shipments of suits into the U.S. have surged from nearly zero to approximately one and a half million units shipped annually.

During the same time frame, production by the U.S. tailored clothing industry has dropped 40 percent and the number of employees has been cut in almost half, from 58,000 to 30,000 employees. In my home state of Pennsylvania, the high-end tailored men's

clothing industry provides high paying jobs in the cities of Reading, Ashland, Easton, Shippensberg and Philadelphia, but since 1991, Pennsylvania has lost over 3000 jobs due to plant closings.

This duty has a real, direct and substantial effect on American jobs. Suspension of the duty on these fabrics will level the playing field with foreign manufacturers and allow the U.S. industry to compete, saving American jobs. I therefore urge my colleagues to join me in supporting its adoption.●

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. BAUCUS, Mr. HATCH, Mr. BREAUX, Mr. JEFFORDS, and Mr. KERRY):

S. 2339. A bill to provide for pension reform, and for other purposes; to the Committee on Finance.

THE PENSION COVERAGE AND PORTABILITY ACT OF 1998

Mr. GRAHAM. Mr. President, earlier today a group of my colleagues representing both sides of the aisle joined together to announce that we would be introducing legislation to increase the security in the retirement of Americans. I want to especially recognize my colleague, Senator GRASSLEY, who has put a tremendous amount of effort into this legislation and, through his position as Chair of the Aging Committee, has demonstrated his commitment to the well-being of older Americans. Senator GRASSLEY and I recognize that for our Nation to solve what would be one of this generation's greatest challenges, building a retirement security for today's workers, we need to move in a commonsense, bipartisan fashion.

Many of the original cosponsors of this bill were key in crafting the sections of this legislation. Senator GRASSLEY's efforts have expanded fairness for women and families and focused on the benefits of retirement education. Senator BAUCUS has brought the ideas that expanded pension coverage and eased administration burdens on America's small businesses. Portability, so important as we become a more mobile society, received the specific attention of Senator JEFFORDS. All businesses will have the hard work of Senator HATCH to thank for many of the regulatory relief and administrative simplification elements of this bill. And Senator BREAUX, who focused on the big picture of retirement security leading the CSIS task force, has incorporated some of his ideas and the ideas of that task force into the legislation that we introduced this evening.

Throughout this process of putting the bill together, our principal task has been one to listen and attempt to understand what we were hearing. We listened at the recent SAVER Summit, which was held here in Washington, DC, held at the direction of this Congress. We listened at town hall meetings throughout our States. We have listened at the Retirement Security Summit, which I held in January of this year in Tampa, FL, and the Women's Summit, which I held in Orlando in April.

The ideas have come from pension actuaries, tax attorneys, Cabinet leaders, and some of the best ideas from everyday Americans. I want to thank those who have endorsed our proposal.

Mr. President, with reason, much of the public debate has now focused on President Clinton's call to "Save Social Security first." I wish to say, as the Senator from New Hampshire has just commented, I, too, benefited by the remarks that were made this evening by the Senator from Minnesota on what is happening on a global basis, in terms of meeting the type of problems which we face in providing retirement security for Americans. We all agree, on both sides of the aisle, that we need to assure that Social Security is as viable for my nine grandchildren and all of their peers, as it was for my parents and will be for me. However, Social Security is only one part of the picture. Pensions and personal savings will make up an ever-increasing part of retirement security. So, when Congress takes action to assure the future of Social Security, we are only addressing one-third of the problem. Our bill addresses the other two-thirds of the problem.

Social Security will play less of a role for each succeeding generation of Americans. We must develop personal savings. We must assure that years of work pay off in reliable pensions. Our bill will help hard-working Americans build personal retirement savings through their employers, through 401(k)s, through payroll deduction IRAs, through higher limits on savings. The employers and workers both will win. Employers get simpler pension systems with less administrative burden and more loyal employees, and workers build a secure retirement and watch savings accumulate over their years of work.

How, specifically, will our bill help? The first focus of our bill is small business. The reason for this primary focus is because this is where the greatest difficulties in achieving retirement security are lodged.

Fifty-one million American workers have no retirement plan at work—51 million Americans without any retirement plan at the place of their employment; 21 million of these employees work in small businesses. The problem: Statistics indicate that only a small percentage of workers in firms of less than 100 employees have access to a retirement plan.

This chart indicates that there is a direct correlation between the number of employees in a business and the likelihood that there will be a pension retirement plan. Firms with less than 25 employees have a retirement plan of 20.2 percent. Firms of 100 or more have a proportion of retirement plans of almost 85 percent.

We are particularly focusing our attention on these smallest firms which are the least likely to have retirement plans, but which are the fastest growing segment of our economy. In the State of Florida, these firms of less than 25 have represented well over 70 percent of the job growth in our State in the last 5 years.

We take a step forward in eliminating one of the principal hurdles that small businesses face when establishing a pension plan.

What is that problem? It is the Federal Government having two hands: On the one hand, the Federal Government is encouraging these businesses to start pension plans, but when they hand out the second hand, they find that the Federal Government wants a palm turned up because the Federal Government is asking for up to $1,000 for a small business to register its plan with the Internal Revenue Service.

We eliminate this fee for small businesses. We need to encourage small businesses to start plans, not discourage them with high registration fees.

Mr. President, the second target of our legislation is women and families. Historically speaking, women live longer than men. Therefore, they need greater savings for retirement because they will have to stretch those savings over more years of life. Yet, our pension and retirement laws do not reflect this fundamental reality. Women are more mobile than men, moving in and out of the workforce due to family responsibilities. Thus, they are less likely to vest in a retirement system. Most retirement systems require a minimum period of time before the employee becomes eligible and has a legal entitlement to the retirement funds. Women are the least likely to meet those minimum years of employment.

As this chart indicates, of women retirees today, 68 percent of women who retire have no retirement benefits; fewer than 32 percent have a pension for their retirement.

Currently, two-thirds of working women are employed in sectors of the economy that are unlikely to offer a retirement plan—service and retail and small businesses.

What is the solution? In an effort to address one of the problems of preparing for a longer life expectancy, we realistically adjust upward the age at which you must start withdrawing funds from your own 401(k) or other similar pension instrument.

Under the current law, you must, you are obligated to start withdrawing money from your retirement plan once you reach the age of 70½, 70 years and 6 months. At the age of 70 years and 6 months, you are obligated to commence the process of withdrawing funds from your retirement plan. However, a woman at the age of 70 can still

have three decades to look forward to in retirement. I know this because I represent many of these wonderful people in my State of Florida.

At the retirement summit I hosted in Tampa, several retirees mentioned that they wanted to keep their money in retirement savings for as long as possible. We propose to raise the 70 years and 6 months age to 75 for mandatory distribution. We do this for both genders, because I am happy to say that men are also living longer. It just happens that women will be the most affected group of Americans by this proposal.

We go beyond raising the age from 70 years and 6 months to 75 years by also providing that $300,000 of any defined benefit contribution plan will be exempt from minimum distribution rules.

This accomplishes several important objectives: Simplifying the bureaucracy for thousands of Americans who have less than $300,000 in their retirement fund, and protecting a vital nest egg for the last years of retirement so that items such as long-term care and other expenses that are part of the aging process can be covered.

Next, Mr. President, we deal with the issue of increasing portability. Over an average 40-year career, the current U.S. worker will have seven different employers. This represents a dramatic shift from the current worker's employment pattern from that of their grandparents where it was common for a person to commence their career and end their career with the same employer.

We have the possibility of a generation of American workers who retire with many small retirement accounts, creating a complex maze of statements and features different for each account.

The solution that we propose includes addressing one element of this by allowing employees, such as teachers, who happen to move from one State to another, to buy into their current locality's defined benefit pension system through the purchase of service credits so that when they retire, they will have one retirement account. It is easier to monitor, less complicated to maintain records about and builds a more secure retirement for the worker.

The next issue that our legislation confronts is that of reducing red tape and administrative complexities. As I mentioned earlier, 51 million Americans have no pensions. The main obstacle that companies face in establishing a retirement program is often bureaucratic administrative burden.

For example, for a small plan, the plan that would deal with companies that have 25 or fewer employees—in this case, the specific example is for a plan with 15 employees—it costs $228 per employee per year just to comply with all the forms, tests and regulations required to maintain a pension plan.

We have a commonsense remedy to one of the most vexing problems in pension administration: figuring out how much money to contribute to the company's plan. It is a complex formula of facts, statistics and assumptions under the current law. We want to be able to say to plans that you have no problem with underfunding. To help make these calculations, you can use the prior year's data to make the proper contribution, and if you do so, you will not be subject to any after-the-fact sanctions. You don't have to re-sort through the numbers each and every year. If your plan is sound, use reliable data from the previous year and then verify when all the final details are available. Companies will be able to calculate and then budget, not wait until figures and rates out of their control are released by external sources.

Another issue is pension security. Under current law, companies cannot fully fund their pension determination liability; that is, provide for a sufficient amount of funding in their pension retirement trust fund to be able to fund that particular pension to its full actuarial amount.

The inability to do so puts workers at risk that the appropriate funds will not be available when their workforce retires. Solution? It makes little sense for the Federal Government to discourage companies from fully funding their pension plans. We propose to repeal this limit, the limit that keeps companies from fully funding their plan. In last year's tax bill we phased this limit up. Now we have a chance to take the final step and allow companies the flexibility to put more money in their pension plans when their economic circumstances allow.

The next provision in our legislation, Mr. President, encourages retirement education. The unfortunate reality is that many Americans do not prepare for retirement because they just do not know that they need to. It has been said in jest, but unfortunately it happens in too many cases—it is true—that Americans spend more time planning a 2-week summer vacation than they do 20 or 30 or more years of retirement.

Studies show that with education, participation rates in retirement savings vehicles jump dramatically. Eighty-one percent of Americans say retirement education has encouraged them to earmark more money for the future. So as Americans have a better understanding of what is involved in retirement—the financial aspects of retirement, the issues of personal health, issues of utilization of leisure time, and all of the other challenges that come in retirement—Americans respond as we would expect, with intelligence and appropriate steps to protect their and their families' interests.

Our solution is to let the Federal Government serve as a role model. Programs already in place to educate our own Federal employees about the need to prepare for retirement should be broadly shared with other firms, both private and public. We ask that the paradigm for these discussions be made available to the general public so that they can be used by American workers who are employed by organizations beyond the Federal Government.

We also ask that the Small Business Administration, which is so helpful to America's entrepreneurs in getting ventures off the ground and expanding when times are right, be involved in outreach in the retirement arena. Through web sites, brochures, whatever means they feel best, the Small Business Administration can help spread the word on what has already been accomplished—simple accounts, payroll deduction IRAs, and more—and keep businesses up to date with each opportunity to save for a secure retirement.

Mr. President, I thank my colleagues who have worked so hard on this measure. I ask for the support of those in this Chamber on this important legislation.

Mr. GRASSLEY. Mr. President, I rise to join my colleagues, Senator GRAHAM, Senator HATCH, Senator BREAUX, Senator BAUCUS, and Senator JEFFORDS to introduce bipartisan pension reform legislation. This legislation, the Pension Coverage and Portability Act of 1998, will go a long way toward improving the pension system in this country.

Promoting retirement income security seems to be on everyone's mind these days if the number of pension bills now pending in Congress is any indication. But I think that our leaders need to understand that pension legislation should be a priority for prompt action by Congress and the President.

Let me try to explain: For better or worse, the most important component of retirement income is the Social Security program. But our nation is about to experience a demographic shift of very large proportions that will have a very negative impact on Social Security. My state is already feeling the impact of this shift.

The state of Iowa has the most people over the age of 85 as a percent of the population. Iowa has the third highest percentage of people over the age of 65. There is a popular statistic relating to the incomes of elderly households we hear a lot—that Social Security is the most important source of income for more than 80 percent of elderly Americans. Knowing the demographics of my state, you can imagine how often I hear about Social Security and the feeling that Social Security isn't enough.

It's hard to tell an 82 year old widow that Social Security was never supposed to be enough. Future retirees seem to understand this, as we have

seen a number of surveys indicating that Gen Xers do not believe Social Security will be the most important source of income once they retire.

But their income will have to come from somewhere. Many workers will be able to rely on increased income from pensions. Unfortunately, right now, one half of our workforce is not participating in a pension plan.

Mr. President, you know the statistics just as well as I do. Coverage levels have been consistent over the last decade but among small employers, coverage is low.

In June, the Employee Benefit Research Institute released the Small Employer Retirement Survey. This survey is very instructive for legislators.

Small employers identified three main reasons for not offering a plan. The first reason is that small employers believe their employees prefer increased wages or other types of benefits. The second reason employers don't offer plans is the administrative costs. And the third most important reason for not offering a plan: uncertain revenue, which makes it difficult to commit to a plan.

Combine these barriers with the responsibilities of a small employer, and we can understand why coverage among small employers has not increased. Small employers who may just be starting out in business are already squeezing every penny. These employers are also people who open up the business in the morning, talk to customers, do the marketing, pay the bills, and just do not know how they can take on the additional duties, responsibilities, and liabilities of sponsoring a pension plan.

I firmly believe that an increase in the number of people covered by pension plans will occur only when small employers have more substantial incentives to establish pension plans.

The Pension Coverage and Portability Act contains provisions which will provide more flexibility for small employers, relief from burdensome rules and regulations, and a tax incentive to start new plans for their employees. One of the new top heavy provisions we have endorsed is an exemption from top heavy rules for employers who adopt the 401(k) safe harbor. This safe harbor will take effect in 1999. When the Treasury Department wrote the regulations and considered whether safe harbor plans should also have to satisfy the top heavy rules, they answered in the affirmative. As a result, a small employer would have to make a contribution of 7 percent of pay for each employee, a very costly proposition.

My colleagues and I also have included a provision which repeals user fees for new plan sponsors seeking determination letters from the IRS. These fees can run from $100 to more than $1,000, depending on the type of plan. Given the need to promote retirement plan formation, we believe this "rob Peter to pay Paul" approach needs to be eliminated.

We have also looked at the lack of success of SIMPLE 401(k) plans. A survey by the Investment Company Institute found that SIMPLE IRAs have proven successful, with almost 100,000 participants. However, SIMPLE 401(k)s just haven't taken off. A couple of the reasons may be that the limits on SIMPLE 401(k)s are tighter than for the IRAs.

Our bill equalizes the compensation limits for these plans; in addition, we have also increased the annual limit on both SIMPLEs to $8,000.

One of the more revolutionary proposals is the creation of a Salary Reduction SIMPLE with a limit of $4,000. Unlike other SIMPLEs, the employer makes no match or automatic contributions. The employer match is usually a strong incentive for a low-income employee to participate in a savings plan. We hope that small employers will look at this SIMPLE as a transition plan, in place for just a couple of years during the initial stages of business operation—then adopt a more expansive plan when the business is profitable.

The other targeted areas in the legislation include: Enhancing pension coverage for women.

Women are more at risk of living in poverty as they age. They need more ways to save because of periodic departures from the workforce. To increase their saving capacity, we have also included a proposal similar to legislation I sponsored earlier this year, S. 1856, the Enhanced Savings Opportunities Act. Like S. 1856, the proposal repeals the 25% of salary contribution limit on defined contribution plans. This limit has seriously impeded savings by women, as well as low- and mid-salary employees.

I prefer this approach to a catch-up provision. Catch-ups would most likely be voluntary on the part of the employer, do not encourage savings over working life, and do not necessarily help low and mid-salary people. Repealing 415(c) is a simplifier, and will allow anyone covered by a defined contribution plan to benefit.

The bill also contains proposals which promote new opportunities to rollover accounts from an old employer to a new employer. The lack of portability among plans is one of the weak links in our current pension system. This new bill contains technical improvements which will help ease the implementation of portability among the different types of defined contribution plans.

Finally, I would like to point out a couple of other provisions in the bill. The first is the new requirement that plan sponsors automatically provide benefit statements to their participants on a periodic basis. For defined contribution plans, the statement would be required annually. For defined benefit plans, a statement would be required every three years. There is a very strong lack of understanding among participants about how their pensions work. There is also a high percentage of people who have done nothing to plan for their retirement.

Providing clear and understandable benefit statements to pension plan participants would encourage people to think about how much money they can expect to receive in retirement. Further, a benefit statement will help people ensure that the information their employer maintains about them is accurate. Almost 80 percent of employers who sponsor defined benefit plans are providing some type of benefit statement automatically. All participants need these statements.

This provision joins other proposals in a new section targeted at encouraging retirement education. Education can make a difference to workers. In fact, in companies which provide investment education, we know workers benefitted because many of them changed their investment allocations to more accurately reflect their investment horizons.

A new provision that I encourage my colleagues to carefully consider targets the problem of participation by proposing an incentive for negative enrollment or "opt-out" plans. My staff and I were familiar with the example set by McDonald's Corp. which utilizes opt-out plans for their employees. But McDonald's was concerned that they might get in trouble with government regulators for operating their plan as an opt-out. President Clinton announced that McDonald's plan was legal—and encouraged other employers to try opt-out plans. This bill includes an incentive for employers to create opt-out plans that we hope will increase participation among low-salary workers.

This legislation joins a number of other strong proposals now pending in the House and here in the Senate. This legislation includes provisions which reflect some of those same proposals. I want to commend the sponsors of those bills. Our legislation has a lot in common with these other pension bills and we need to push for fast and favorable consideration of, at a minimum, the similar provisions in our legislation.

We have a window of opportunity to act. The Baby Boomers are coming. The letters from AARP are starting to arrive in their mailboxes. The Social Security Administration is starting to stagger the delivery of benefit checks in preparation for their retirement. Many elderly households rely too heavily on Social Security. Future retirees will not be able to rely on all of the

benefits now provided by Social Security. We can look to the pension system to pick up where Social Security leaves off, but we need to act.

I thank the other co-sponsors of this legislation for all of their work, and I encourage our colleagues to give strong consideration to co-sponsoring this bill. With concerted, bipartisan action, we can improve the pension system. Pensions for today's workers will substantially improve the retirement outlook for millions of Americans. But we have some work to do if pensions are going to fulfill their promise.

Mr. BAUCUS. Mr. President, most people my age have known the heartache of having to watch their parents grow old. It is a sad day in a person's life when they see their father get his first gray hair. Or the day you notice lines in your mother's face where previously, there were none.

This aging process is made worse by the scary and very real possibility that too many people who will become senior citizens in the next several years are not at all prepared for the transition from work to retirement.

To be honest, it isn't our parents who we need to worry about so much. They survived the Depression. They know what it takes to get by during the lean years—it takes planning and saving. Putting money aside, when it might be easier to spend it in the moment.

Those are the values that our parents live by. They are the values we would do well to heed. And even better to teach those who will follow us.

We as a nation have lost our imperative to save. Personal savings rates have dropped to 3.8 percent of our Gross Domestic Product, the lowest in 58 years.

Fifty-one million Americans in our nation's workforce have no pension coverage. But statistics like those don't tell the whole story. They don't do justice to the hardscrabble struggles that real people go through every day. Struggles that involve agonizing questions like: "Should I eat today or take my medication?" or "Will I be able to heat my house this winter?"

Make no mistake, our nation's lack of saving for retirement is a tragedy in the making.

That is why I am so proud to join my colleagues in introducing this legislation.

A bill that will make it easier for Americans to put money aside, and a bill that will help move pension issues to the forefront of Americans' minds. A bill that will:

Expand coverage for small businesses because they have a harder time affording health care and retirement plans;

Enhance pension fairness for women because they fall into categories that have a harder time saving;

Increase the portability of pension plans so that when you change jobs you don't have to worry about where your savings will go;

Strengthen pension security and enforcement so you can rest easy at night, knowing your money is safe;

Reduce red tape so it's easier for employers to give their workers retirement options;

And encourage retirement education so that husbands and wives, parents and children, talk to each other—make plans for their future. And know what to expect tomorrow and down the road.

One aspect of the bill I am particularly proud of are the small business provisions. Thirty-eight million of the people in this country who do not have a pension plan work at small businesses. Eighty percent of all small business employees have no pension coverage.

In my state of Montana, more than 95 percent of our businesses are small businesses. And almost 9 out of 10 offer no pension plans. We cannot let these hard-working Americans down.

Currently, most small businesses can't afford pension plans. They would like to, but they just can't make ends meet.

Our bill makes it a smart business decision for small business owners to offer retirement plans.

I have made it my priority to work with members of the small business community, both back in Montana and nationally, to identify legislative solutions that will most readily enable small businesses to offer pension plans to their employees. While this bill does not include every recommendation we received, it does represent a collection of high-priority proposals which we believe could be supported by a bi-partisan majority of Congress.

The major provisions in this bill which would help small businesses start and maintain pension plans include the following:

To help make pension plans more affordable we have included two new tax credits: one to help defray start-up costs and the other to defray the cost of employer contributions to pension plans;

In addition, we provide for the elimination of some fees.

To address the problems the small business community has identified as a major impediment to establishing pension plans, we make significant changes in the top-heavy rules that limit employer contributions to plans.

To address concerns of our smallest businesses, who want to provide pensions but can only afford 'start-up' plans at first, we provide increases in income limits that apply to SIMPLE pension plans, along with a new, salary-reduction SIMPLE plan;

And for those employers that want to provide the security of a defined benefit plan for their employees but cannot because of the increased regulatory burden, we create a simplified defined benefit plan for small business.

These provisions are designed to address the problems of cost and complexity that are a barrier to so many small businesses. They will help small employers establish a pattern of saving for themselves and their employees.

Mr. President, I hope the Pension Coverage and Portability Act will spearhead a national debate on how to improve employer-provide pensions in this country.

This debate is essential if we are to achieve our goal of making America in the next century, not only strong as a nation, but strong as a community of individuals confident in the security of their financial futures.

This is a good, bi-partisan bill. It takes the positive steps we as a nation need to put our future in safe hands.

I am eager for the coming debate on this bill.

I hope it sparks a debate in the coffee shops and kitchen tables all across the country. Working together, and with this bill, we can turn a nation of spenders, into a nation of savers.

Mr. GRAHAM. Mr. President, I ask unanimous consent to have printed in the RECORD letters from the Profit Sharing 401(k) Council of America, the American Society of Pension Actuaries, the Association of Private Pension and Welfare Plans, and the National Association of State Retirement Administrators, all of whom endorse this legislation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

PROFIT SHARING 401(K)
COUNCIL OF AMERICA,
Chicago, IL, July 21, 1998.

THE PENSION COVERAGE AND PORTABILITY ACT OF 1998

The Profit Sharing/401(k) Council of America commends Senators GRAHAM, GRASSLEY, BAUCUS, BREAUX, JEFFORDS, D'AMATO, HATCH, and KERREY for this comprehensive reform and updating of the regulation of private pensions. We believe that this legislation identifies and removes many barriers to increasing retirement security for working Americans. Areas of particular interest to our members include the modification of top-heavy rules, the elimination of the percentage of salary limit, and the removal of elective deferrals from the employer deduction calculation.

The Profit Sharing/401(k) Council of America (PSCA) is a non-profit association that for the past fifty years has represented companies that sponsor profit sharing and 401(k) plans for their employees. PSCA has approximately 1200 company-members who employ approximately 3 million plan participants throughout the United States. PSCA's members range in size from a six employee parts distributor to firms with hundreds of thousands of employees.

We look forward to working together to achieve implementation of this important bill.

AMERICAN SOCIETY OF
PENSION ACTUARIES,
Arlington, VA, July 21, 1998.

Hon. BOB GRAHAM,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the American Society of Pension Actuaries, I am

writing to express our strong support for the Pension Coverage and Portability Act of 1998. This comprehensive legislation recognizes the important role played by the private pension system in providing retirement savings for Americans.

By simplifying the complicated tax laws governing retirement plans, your legislation is a significant step in the right direction that will encourage retirement plan formation and expansion. Current law, and the thousands of pages of accompanying regulations, have gone too far. Though intended to increase access to private pension savings, these laws and regulations have actually had an opposite effect, leaving millions of American workers without an easy way to save adequately for retirement.

ASPA represents over 3,000 pension professionals who provide services to approximately one-third of the qualified retirement plans in the United States. The vast majority of these plans are maintained by small businesses. Our members have first-hand knowledge of the existing regulatory barriers preventing retirement plan formation and retention by employers. We believe the provisions in your legislation, including the new simplified defined benefit plan for small business called the SAFE plan, the elimination of the 25 percent of compensation limit on plan contributions, and the relaxation of the top-heavy rules, will encourage employers to offer pension plans for their employees, and will make it easier for employees to increase their own retirement savings.

Again, ASPA thanks you for your work on retirement issues. The Pension Coverage and Portability Act sends a strong message that current regulations have gone too far. We look forward to working with you to move this bill through the legislative process.

Sincerely,

BRIAN GRAFF,
Executive Director.

ASSOCIATION OF PRIVATE PENSION AND WELFARE PLANS
Washington, DC, July 21, 1998.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: I am writing on behalf of the Association of Private Pension and Welfare Plans (APPWP) to express our support for the Pension Coverage and Portability Act. We commend you for your leadership in addressing the need to strengthen the employer-sponsored retirement system. The APPWP is the national trade association for companies concerned about federal legislation and regulations affecting all aspects of the employee benefits community. APPWP members either sponsor directly or provide to employee benefit plans covering more than 100 million Americans.

Your legislation represents a significant step towards improving the rules governing the employer sponsored retirement system upon which millions of Americans rely for a majority of their retirement income. More specifically, we believe that passage of this legislation will expand coverage, particularly among small businesses, allow employers to design their plans to more effectively meet their workers' needs and increase portability and preservation of retirement income.

In particular, we are pleased that you recognize the need to include provisions that reduce the complexity and improve the incentives for maintaining a retirement plan such as repeal of the "same desk rule," relief from the overly restrictive "anti-cut back rules," modification of the top-heavy and minimum distribution rules, simplification of the ESOP dividend reinvestment rules and relief from the anomalies of the mechanical nondiscrimination rules.

However, as you continue your work on an improved employer-sponsored retirement system, we urge you to consider two major savings incentives that regrettably have not been included in the bill. As we discussed with you when you spoke to our Board of Directors last September, increasing the contribution limits and adding a "catch-up" contribution provision would encourage plan participants to save more for retirement. The need for American workers to save more effectively was recently highlighted at the National Summit on Retirement Savings and we believe it is critical that Congress acknowledge its importance by providing increased incentives. As you have recognized by the Pension Coverage and Portability Act, the employer-sponsored retirement system plays a vital role in assuring that Americans have adequate retirement incomes. We look forward to working with you to improve the savings incentives in employer-sponsored retirement plans.

Sincerely,

JAMES A. KLEIN,
President.

NATIONAL ASSOCIATION OF STATE RETIREMENT ADMINISTRATORS,
Washington, DC, July 21, 1998.

Hon. BOB GRAHAM,
Senate Hart Office Building, Washington, DC.

RE: Support Public Pension Portability Provisions the Senate Bipartisan Pension Tax Package

DEAR SENATOR GRAHAM: On behalf of our nation's State retirement plans and the millions of public employees, retirees and beneficiaries who they cover, the National Association of State Retirement Administrators (NASRA) supports public pension provisions contained in the Senate Bipartisan Pension Tax Package.

In particular, we support provisions in your legislation that promote portability between various defined contribution and deferred compensation plans, and that allow funds from all of these plans to be used to purchase permissive service credits in public defined benefit plans. We also applaud provisions that would remove certain pension limitations.

All of these provisions would help employees build and strengthen their retirement savings, especially those who have worked among various public, non-profit and private institutions. Our organization is very grateful for your leadership on former public pension legislation, and commends you on your continued work in this area.

Sincerely,

M. DEE WILLIAMS,
President.
RICHARD E. SCHUMACHER,
Immediate Past President, Chair, Legislative Committee.

• Mr. JEFFORDS. Mr. President, I am glad to cosponsor the Pension Coverage and Portability Act of 1998, (PCPA). I cosponsored the predecessor bill, S. 889 with senators GRAHAM, HATCH, and others, and PCPA is a natural follow-on to S. 889.

This bill will encourage pension plan sponsorship among small businesses and make it easier for the small business man or woman to have greater confidence in government oversight of their plan and that they will not have to constantly hire services of actuaries, accountants and tax attorneys and investment advisers once they establish it. The bill makes it easier to implement a payroll deduction IRA, it provides for a simplified defined benefit pension plan, it allows a payroll deduction SIMPLE plan with limits twice as high as those currently available to IRAs, it eliminates IRS registration fees for new plans and provides a tax credit for plan start up, as well as many other things.

The bill also eases the top-heavy rules. In the days when the only small pension plans belonged to doctor's and lawyer's offices, the top heavy rules were needed to assure non-discrimination in provision of benefits. But instead of expanding coverage, the top heavy rules now tend to impose harsh requirements on the small business owner which deters him or her from even offering a plan. This bill makes changes to the top heavy rules in constructive and thoughtful ways, such as by changing the family aggregation rules, taking employee elective contributions into account for purposes of meeting the standards and simplifying the definition of 'key employee'.

The bill makes pension plans more portable, a feature that is desperately needed in today's highly mobile workforce. Senator GRAHAM has incorporated the body of S. 2329, the bill that he, Senator BINGAMAN and I introduced recently, as Title III of PCPA. Our bill eases rollovers, allows rollovers of after-tax contributions, waives the 60-day rule under certain circumstances, modifies the "same-desk" rule, rationalizes distribution rules and allows governmental workers to purchase service credit with defined contribution plan money to increase their benefits in their defined benefit plans. This bill makes essentially the same changes.

In addition to encouraging plan sponsorship among small businesses and facilitating pension portability, the bill encourages retirement savings education. It also reduces the regulatory burdens associated with maintaining a plan, such as providing coverage test flexibility and freedom from the requirement to use mechanical nondiscrimination testing rules.

Although I believe the vast majority of this measure takes positive steps forward, I do have some misgivings about the staffing firms provision included in section 108. I am cosponsoring PCPA despite the inclusion of section 108 in the bill, but I hope that Senator GRAHAM and the other cosponsors will work with me to air the issues and try to address the concerns of those who oppose this provision in as constructive a manner as is appropriate.•

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. ENZI, his name was withdrawn as a cosponsor of S. 10, a bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 657

At the request of Mr. DASCHLE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 657, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

S. 769

At the request of Mr. LAUTENBERG, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 769, a bill to amend the provisions of the Emergency Planning and Community Right-To-Know Act of 1986 to expand the public's right to know about toxic chemical use and release, to promote pollution prevention, and for other purposes.

S. 1321

At the request of Mr. TORRICELLI, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1427

At the request of Mr. FORD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1427, a bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve lowpower television stations that provide community broadcasting, and for other purposes.

S. 1647

At the request of Mr. BAUCUS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1862

At the request of Mr. DEWINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 1890

At the request of Mr. DASCHLE, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 1890, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1891

At the request of Mr. DASCHLE, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 1891, a bill to amend the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage.

S. 1924

At the request of Mr. MACK, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 2035

At the request of Mr. BAUCUS, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from North Dakota (Mr. DORGAN), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 2035, a bill to amend title 39, United States Code, to establish guidelines for the relocation, closing, or consolidation of post offices, and for other purposes.

S. 2128

At the request of Mr. STEVENS, the names of the Senator from South Carolina (Mr. THURMOND) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

S. 2162

At the request of Mr. MACK, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 2162, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment.

S. 2180

At the request of Mr. LOTT, the names of the Senator from Idaho (Mr. KEMPTHORNE), the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Carolina (Mr. THURMOND), the Senator from North Carolina (Mr. HELMS), and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2259

At the request of Mr. MURKOWSKI, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of S. 2259, a bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program.

S. 2295

At the request of Mr. MCCAIN, the names of the Senator from Ohio (Mr. GLENN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2296

At the request of Mr. MACK, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2296, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of receipts attributable to military property which may be treated as exempt foreign trade income.

S. 2330

At the request of Mr. NICKLES, the names of the Senator from Kentucky (Mr. MCCONNELL) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 2330, a bill to improve the access and choice of patients to quality, affordable health care.

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from Rhode Island (Mr. REED), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

AMENDMENTS SUBMITTED

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

BROWNBACK AMENDMENT NO. 3226

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill (S. 2260) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related programs for the fiscal year ending September 30, 1999; as follows:

On page 62, lines 3 through 16, strike "That if the standard build-out" and all that follows through "covered by those costs." and insert the following: "That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.69 per occupiable square feet in year 2000 dollars (which constitutes the amount specified in the Advanced Acquisition program of the General Services Administration), including any above-standard costs: *Provided further*, That

the moving costs of the Patent and Trademark Office (which shall include the costs of moving furniture, telephone, and data installation) shall not exceed $135,000,000.''.

COATS AMENDMENT NO. 3227

Mr. COATS proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, between lines 11 and 12, insert the following:

TITLE I.—

SEC. 620. (a) PROHIBITION.—

(1) IN GENERAL.—Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended—

(A) by redesignating subsections (e), (f), (g), and (h) as subsections (f), (g), (h), and (i), respectively; and

(B) by inserting after subsection (d) the following new subsection (e):

''(e)(1) Whoever in interstate or foreign commerce in or through the World Wide Web is engaged in the business of the commercial distribution of material that is harmful to minors shall restrict access to such material by persons under 17 years of age.

''(2) Any person who violates paragraph (1) shall be fined not more than $50,000, imprisoned not more than six months, or both.

''(3) In addition to the penalties under paragraph (2), whoever intentionally violates paragraph (1) shall be subject to a fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

''(4) In addition to the penalties under paragraphs (2) and (3), whoever violates paragraph (1) shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

''(5) It is an affirmative defense to prosecution under this subsection that the defendant restricted access to material that is harmful to minors by persons under 17 years of age by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number or in accordance with such other procedures as the Commission may prescribe.

''(6) This subsection may not be construed to authorize the Commission to regulate in any manner the content of any information provided on the World Wide Web.

''(7) For purposes of this subsection:

''(A) The term 'material that is harmful to minors' means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

''(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

''(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

''(iii) lacks serious literary, artistic, political, or scientific value.

''(B) The terms 'sexual act' and 'sexual contact' have the meanings assigned such terms in section 2246 of title 18, United States Code.''.

(2) CONFORMING AMENDMENT.—Subsection (h) of such section, as so redesignated, is amended by striking ''(e), or (f)'' and inserting ''(f), or (g)''.

(b) AVAILABILITY ON INTERNET OF DEFINITION OF MATERIAL THAT IS HARMFUL TO MINORS.—The Attorney General, in the case of the Internet web site of the Department of Justice, and the Federal Communications Commission, in the case of the Internet web site of the Commission, shall each post or otherwise make available on such web site such information as is necessary to inform the public of the meaning of the term ''material that is harmful to minors'' under section 223(e) of the Communications Act of 1934, as amended by subsection (a) of this section.

McCAIN (AND OTHERS) AMENDMENT NO. 3228

Mr. MCCAIN (for himself, Mr. COATS, and Mrs. MURRAY) proposed an amendment to amendment No. 3227 proposed by Mr. COATS to the bill, S. 2260, supra; as follows:

At the end of the pending Amendment, add the following:

TITLE II.—INTERNET FILTERING

SECTION 1. NO UNIVERSAL SERVICE FOR SCHOOLS OR LIBRARIES THAT FAIL TO IMPLEMENT A FILTERING OR BLOCKING SYSTEM FOR COMPUTERS WITH INTERNET ACCESS.

(a) IN GENERAL.—Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end thereof the following:

''(l) IMPLEMENTATION OF A FILTERING OR BLOCKING SYSTEM.—

''(1) IN GENERAL.—No services may be provided under subsection (h)(1)(B) to any elementary or secondary school, or any library, unless it provides the certification required by paragraph (2) or (3), respectively.

''(2) CERTIFICATION FOR SCHOOLS.—Before receiving universal service assistance under subsection (h)(1)(B), an elementary or secondary school (or the school board or other authority with responsibility for administration of that school) shall certify to the Commission that it has—

''(A) selected a system for computers with Internet access to filter or block matter deemed to be inappropriate for minors; and

''(B) installed, or will install as soon as it obtains computers with Internet access, a system to filter or block such matter.

''(3) CERTIFICATION FOR LIBRARIES.—Before receiving universal service assistance under subsection (h)(1)(B), a library that has a computer with Internet access shall certify to the Commission that, on one or more of its computers with Internet access, it employs a system to filter or block matter deemed to be inappropriate for minors. If a library that makes a certification under this paragraph changes the system it employs or ceases to employ any such system, it shall notify the Commission within 10 days after implementing the change or ceasing to employ the system.

''(4) LOCAL DETERMINATION OF CONTENT.—For purposes of paragraphs (2) and (3), the determination of what matter is inappropriate for minors shall be made by the school, school board, library or other authority responsible for making the required certification. No agency or instrumentality of the United States Government may—

''(A) establish criteria for making that determination;

''(B) review the determination made by the certifying school, school board, library, or other authority; or

''(C) consider the criteria employed by the certifying school, school board, library, or other authority in the administration of subsection (h)(1)(B).''.

(b) CONFORMING CHANGE.—Section 254(h)(1)(B) of the Communications Act of 1934 (47 U.S.C. 254(h)(1)(B)) is amended by striking ''All telecommunications'' and inserting ''Except as provided by subsection (l), all telecommunications''.

McCAIN (AND BURNS) AMENDMENT NO. 3229

Mr. MCCAIN (for himself and Mr. BURNS) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

SEC. —. MULTICHANNEL VIDEO PROGRAMMING.

(a) FINDINGS.—

(1) The Congress finds that:

(A) Signal theft represents a serious threat to direct-to-home satellite television. In the Telecommunications Act of 1996, Congress confirmed the applicability of penalties for unauthorized decryption of direct-to-home satellite services. Nevertheless, concerns remain about civil liability for such unauthorized decryption.

(B) In view of the desire to establish competition to the cable television industry, Congress authorized consumers to utilize direct-to-home satellite systems for viewing video programming through the Cable Communications Policy Act of 1984.

(C) Congress found in the Cable Television Consumer Protection and Competition Act of 1992 that without the presence of another multichannel video programming distributor, a cable television operator faces no local competition and that the result is undue market power for the cable operator as compared to that of consumers and other video programmers.

(D) The Federal Communications Commission, under the Cable Television Consumer Protection and Competition Act of 1992, has the responsibility for reporting annually to the Congress on the state of competition in the market for delivery of multichannel video programming.

(E) In the Cable Television Consumer Protection and Competition Act of 1992, Congress stated its policy of promoting the availability to the public of a diversity of views and information through cable television and other video distribution media.

(F) Direct-to-home satellite television service is the fastest growing multichannel video programming service with approximately 8 million households subscribing to video programming delivered by satellite carriers.

(G) Direct-to-home satellite television service is the service that most likely can provide effective competition to cable television service.

(H) Through the compulsory copyright license created by section 119 of the Satellite Home Viewer Act of 1988, satellite carriers have paid a royalty fee per subscriber, per month to retransmit network and superstation signals by satellite to subscribers for private home viewing.

(I) Congress set the 1988 fees to equal the average fees paid by cable television operators for the same superstation and network signals.

(J) Effective May 1, 1992, the royalty fees payable by satellite carriers were increased through compulsory arbitration to $0.06 per subscriber per month for retransmission of network signals and $0.175 per subscriber per month for retransmission of superstation signals, unless all of the programming contained in the superstation signal is free from syndicated exclusivity protection under the rules of the Federal Communications Commission, in which case the fee was decreased to $0.14 per subscriber per month. These fees

were 40–70 percent higher than the royalty fees paid by cable television operators to retransmit the same signals.

(K) On October 27, 1997, the Librarian of Congress adopted the recommendation of the copyright Arbitration Royalty Panel and approved raising the royalty fees of satellite carriers to $0.27 per subscriber per month for both superstation and network signals, effective January 1, 1998.

(L) The fees adopted by the Librarian are 270 percent higher for superstations and 900 percent higher for network signals than the royalty fees paid by cable television operators for the exact same signals.

(M) To be an effective competitive to cable, direct-to-home satellite television must have access to the same programming carried by its competitors and at comparable rates. In addition, consumers living in areas where over-the-air network signals are not available rely upon satellite carriers for access to important news and entertainment.

(N) The Copyright Arbitration Royalty Panel did not adequately consider the adverse competitive effect of the differential in satellite and cable royalty fees on promoting competition among multichannel video programming providers and the importance of evaluating the fees satellite carriers pay in the context of the competitive nature of the multichannel video programming marketplace.

(O) If the recommendation of the Copyright Arbitration Royalty Panel is allowed to stand, the direct-to-home satellite industry, whose total subscriber base is equivalent in size to approximately 11 percent of all cable households, will be paying royalties that equal half the size of the cable royalty pool, thus giving satellite subscribers a disproportionate burden for paying copyright royalties when compared to cable television subscribers.

(b) DBS SIGNAL SECURITY.—Section 605(d) of the Communications Act of 1934 (47 U.S.C. 605) is amended by adding after "satellite cable programming," the following: "or direct-to-home satellite services,".

(c) NOTICE OF INQUIRY; REPORT.—Section 628 of the Communications Act of 1934 (47 U.S.C. 548) is amended by adding at the end of subsection (g): "The Commission shall, within 180 days after enactment of the Act making appropriations for the Department of Commerce, Justice, and State, the Judiciary and related agencies for the fiscal year evolving September 30, 1998, initiate a notice of inquiry to determine that best way in which to facilitate the retransmission of distant broadcast signals such that it is more consistent with the 1992 Cable Act's goal of promoting competition in the market for delivery of multichannel video programming and the public interest. The Commission also shall within 180 days after such date of enactment report to Congress on the effect of the increase in royalty fees paid by satellite carriers pursuant to the decision by the Librarian of Congress on competition in the market for delivery of multichannel video programming and the ability of the direct-to-home satellite industry to compete.".

(d) EFFECTIVE DATE.—Notwithstanding any other provision of law, the Copyright Office is prohibited from implementing, enforcing, collecting or awarding copyright royalty fees, and no obligation or liability for copyright royalty fees shall accrue pursuant to the decision of the Librarian of Congress on October 27, 1997, which established a royalty fee of $0.27 per subscriber per month for the retransmission of distant broadcast signals by satellite carriers, before January 1, 2000.

BOXER (AND OTHERS) AMENDMENT NO. 3230

Mrs. BOXER (for herself, Mr. KOHL, Mr. TORRICELLI, Mr. LAUTENBERG, Mr. MOYNIHAN, and Ms. LANDRIEU) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. 1___. CHILD SAFETY LOCKS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'locking device' means a device or locking mechanism—

"(A) that—

"(i) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

"(ii) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

"(iii) is a safe, gun safe, gun case, lock box, or other device that is designed—

"(I) to store a firearm; and

"(II) to be unlocked only by means of a key, a combination, or other similar means; and

"(B) that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred.".

(b) UNLAWFUL ACTS.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

"(y) LOCKING DEVICES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the—

"(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a firearm; or

"(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a firearm for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a firearm for purposes of law enforcement (whether on or off duty).".

(2) EFFECTIVE DATE.—Section 922(y) of title 18, United States Code, as added by this subsection, shall take effect 150 days after the date of enactment of this Act.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this section shall be construed to—

(A) create a cause of action against any firearms dealer or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this section.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(y) of that title.

(d) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(2) by adding at the end the following:

"(p) PENALTIES RELATING TO LOCKING DEVICES.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

"(i) suspend or revoke any license issued to the licensee under this chapter; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.".

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 150 days after the date of enactment of this Act.

BOXER (AND OTHERS) AMENDMENT NO. 3231

Mrs. BOXER (for herself, Mr. KOHL, Mr. TORRICELLI, Mr. LAUTENBERG, Mr. MOYNIHAN, Ms. LANDRIEU, and Ms. MIKULSKI) proposed an amendment to amendment No. 3230 proposed by Mrs. BOXER to the bill, S. 2260, supra; as follows:

Strike all after the first word and insert the following:

1___. CHILD SAFETY LOCKS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'locking device' means a device or locking mechanism—

"(A) that—

"(i) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

"(ii) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

"(iii) is a safe, gun safe, gun case, lock box, or other device that is designed—

"(I) to store a firearm; and

"(II) to be unlocked only by means of a key, a combination, or other similar means; and

"(B) that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred.".

(b) UNLAWFUL ACTS.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by inserting after subsection (x) the following:

"(y) LOCKING DEVICES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the—

"(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a firearm; or

"(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a firearm for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a firearm for purposes of law enforcement (whether on or off duty).".

(2) EFFECTIVE DATE.—Section 922(y) of title 18, United States Code, as added by this subsection, shall take effect 180 days after the date of enactment of this Act.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this section shall be construed to—

(A) create a cause of action against any firearms dealer or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this section.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(y) of that title.

(d) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(2) by adding at the end the following:

"(p) PENALTIES RELATING TO LOCKING DEVICES.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

"(i) suspend or revoke any license issued to the licensee under this chapter; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.".

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

BAUCUS AMENDMENT NO. 3232

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill, S. 2260, supra; as follows:

On page 56, line 16, insert before the period at the end the following: ": *Provided further*, That of the amounts available under this heading, $150,000 shall be made available to the Bear Paw Development Council, Montana, for the management and conversion of the Havre Air Force Base and Training Site, Montana, for public benefit purposes, including public schools, housing for the homeless, and economic development".

SMITH (AND ENZI) AMENDMENT NO. 3233

Mr. SMITH of New Hampshire (for himself and Mr. ENZI) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

"SEC. . None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) any system to implement 18 U.S.C. 922(t) that does not require and result in the immediate destruction of all information, in any form whatsoever, submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm; (2) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t); provided, that any person aggrieved by a violation of this provision may bring an action in the federal district court for the district in which the person resides; provided, further, that any person who is successful with respect to any such action shall receive damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee. The provisions of this section shall become effective one day after enactment."

SMITH AMENDMENT NO. 3234

Mr. SMITH of New Hampshire proposed an amendment to amendment No. 3233 proposed by him to the bill, S. 2260, supra; as follows:

In the pending amendment, strike all after the word "SEC." and insert in lieu thereof the following:

None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) any system to implement 18 U.S.C. 922(t) that does not require and result in the immediate destruction of all information, in any form whatsoever, submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm; (2) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t); provided, that any person aggrieved by a violation of this provision may bring an action in the federal district court for the district in which the person resides; provided, further, that any person who is successful with respect to any such action shall receive damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney's fee. The provisions of this section shall become effective one day after enactment."

LOTT AMENDMENT NO. 3235

Mr. LOTT proposed an amendment to the motion to commit proposed by him to the bill, S. 2260, supra; as follows:

In the appropriate place insert the following:

SEC. . FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) undertaking educational and training programs for—

"(A) criminal justice personnel; and

"(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;";

(2) in the first sentence of subsection (b), by inserting before the period the following: "and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)"; and

(3) by adding at the end the following:

"(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

"(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

"(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

"(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

"(A) is not of a sufficient size to justify an evaluation; or

"(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

LOTT AMENDMENT NO. 3236

Mr. LOTT proposed an amendment to amendment No. 3235 proposed by him to the bill, S. 2260, supra; as follows:

Amendments intended to be proposed by Mr. CRAIG, strike all after the first word of the amendment and insert the following:

FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) undertaking educational and training programs for—

"(A) criminal justice personnel; and

"(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;";

(2) in the first sentence of subsection (b), by inserting before the period the following: "and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)"; and

(3) by adding at the end the following:

"(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

"(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

"(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

"(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

"(A) is not of a sufficient size to justify an evaluation; or

"(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 2, 1998; or

(2) the date of enactment of this Act.

LOTT AMENDMENT NO. 3237

Mr. LOTT proposed an amendment to amendment No. 3236 proposed by him to the bill, S. 2260, supra; as follows:

Strike all after the word "Firearms" and insert the following:

SAFETY.

(a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the

operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. . FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) undertaking educational and training programs for—

"(A) criminal justice personnel; and

"(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;";

(2) in the first sentence of subsection (b), by inserting before the period the following: "and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)"; and

(3) by adding at the end the following:

"(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

"(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

"(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

"(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

"(A) is not of a sufficient size to justify an evaluation; or

"(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.".

CRAIG (AND HATCH) AMENDMENT NO. 3238

Mr. CRAIG (for himself and Mr. HATCH) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place insert the following:

SEC. . FIREARMS SAFETY.

(a) SECURE GUN STORAGE DEVICE.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(34) The term 'secure gun storage or safety device' means—

"(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

"(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

"(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.".

(b) CERTIFICATION REQUIRED IN APPLICATION FOR DEALER'S LICENSE.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).".

(c) REVOCATION OF DEALER'S LICENSE FOR FAILURE TO HAVE SECURE GUN STORAGE OR SAFETY DEVICES AVAILABLE.—The first sentence of section 923(e) of title 18, United States Code, is amended by inserting before the period at the end the following: "or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device)".

(d) STATUTORY CONSTRUCTION; EVIDENCE.—

(1) STATUTORY CONSTRUCTION.—Nothing in the amendments made by this section shall be construed—

(A) as creating a cause of action against any firearms dealer or any other person for any civil liability; or

(B) as establishing any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. . FIREARM SAFETY EDUCATION GRANTS.

(a) IN GENERAL.—Section 510 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) undertaking educational and training programs for—

"(A) criminal justice personnel; and

"(B) the general public, with respect to the lawful and safe ownership, storage, carriage, or use of firearms, including the provision of secure gun storage or safety devices;";

(2) in the first sentence of subsection (b), by inserting before the period the following: "and is authorized to make grants to, or enter into contracts with, those persons and entities to carry out the purposes specified in subsection (a)(1)(B) in accordance with subsection (c)"; and

(3) by adding at the end the following:

"(c)(1) In accordance with this subsection, the Director may make a grant to, or enter into a contract with, any person or entity referred to in subsection (b) to provide for a firearm safety program that, in a manner consistent with subsection (a)(1)(B), provides for general public training and dissemination of information concerning firearm safety, secure gun storage, and the lawful ownership, carriage, or use of firearms, including the provision of secure gun storage or safety devices.

"(2) Funds made available under a grant under paragraph (1) may not be used (either directly or by supplanting non-Federal funds) for advocating or promoting gun control, including making communications that are intended to directly or indirectly affect

the passage of Federal, State, or local legislation intended to restrict or control the purchase or use of firearms.

"(3) Except as provided in paragraph (4), each firearm safety program that receives funding under this subsection shall provide for evaluations that shall be developed pursuant to guidelines that the Director of the National Institute of Justice of the Department of Justice, in consultation with the Director of the Bureau of Justice Assistance and recognized private entities that have expertise in firearms safety, education and training, shall establish.

"(4) With respect to a firearm safety program that receives funding under this section, the Director may waive the evaluation requirement described in paragraph (3) if the Director determines that the program—

"(A) is not of a sufficient size to justify an evaluation; or

"(B) is designed primarily to provide material resources and supplies, and that activity would not justify an evaluation.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the earlier of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

MOSELEY-BRAUN (AND DURBIN) AMENDMENT NO. 3239

(Ordered to lie on the table.)

Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN) submitted an amendment intended to be proposed by them to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. INTERNET PREDATOR PREVENTION.

(a) PROHIBITION AND PENALTIES.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"§ 2261. Publication of identifying information relating to a minor for criminal sexual purposes

"(a) DEFINITION OF IDENTIFYING INFORMATION RELATING TO A MINOR.—In this section, the term 'identifying information relating to a minor' includes the name, address, telephone number, social security number, or e-mail address of a minor.

"(b) PROHIBITION AND PENALTIES.—Whoever, through the use of any facility in or affecting interstate or foreign commerce (including any interactive computer service) publishes, or causes to be published, any identifying information relating to a minor who has not attained the age of 17 years, for the purpose of soliciting any person to engage in any sexual activity for which the person can be charged with criminal offense under Federal or State law, shall be imprisoned not less than 1 and not more than 5 years, fined under this title, or both.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following:

"2261. Publication of identifying information relating to a minor for criminal sexual purposes.".

DURBIN AMENDMENT NO. 3240

Mr. DURBIN proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title I of the bill, insert the following:

SEC. ___. FIREARMS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d), by striking paragraph (5) and inserting the following:

"(5) who, being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));";

(2) in subsection (g), by striking paragraph (5) and inserting the following:

"(5) who, being an alien—

"(A) is illegally or unlawfully in the United States; or

"(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));";

(3) in subsection (s)(3)(B), by striking clause (v) and inserting the following:

"(v) is not an alien who—

"(I) is illegally or unlawfully in the United States; or

"(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));"; and

(4) by inserting after subsection (x) the following:

"(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NONIMMIGRANT VISAS.—

"(1) DEFINITIONS.—In this subsection—

"(A) the term 'alien' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

"(B) the term 'nonimmigrant visa' has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

"(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

"(A) admitted to the United States for lawful hunting or sporting purposes;

"(B) an official representative of a foreign government who is—

"(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

"(ii) en route to or from another country to which that alien is accredited;

"(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

"(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

"(3) WAIVER.—

"(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

"(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

"(ii) the Attorney General approves the petition.

"(B) PETITION.—Each petition under subparagraph (B) shall—

"(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

"(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

"(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

"(i) would be in the interests of justice; and

"(ii) would not jeopardize the public safety.".

ABRAHAM (AND LEVIN) AMENDMENT NO. 3241

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill, S. 2260, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. 2___. SEDIMENT CONTROL STUDY.

Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for operations, research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

ABRAHAM (AND ALLARD) AMENDMENT NO. 3242

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself and Mr. ALLARD) submitted an amendment intended to be proposed by them to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

In lieu of the pending amendment, insert the following:

SECTION . SHORT TITLE.

This Act may be cited as the "Powder Cocaine Mandatory Minimum Sentencing Act of 1998".

SEC. . SENTENCING FOR VIOLATIONS INVOLVING COCAINE POWDER.

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—

(1) LARGE QUANTITIES.—Section 401(b)(1)(A)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)) is amended by striking "5 kilograms" and inserting "500 grams".

(2) SMALL QUANTITIES.—Section 401(b)(1)(B)(ii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)(ii)) is amended by striking "500 grams" and inserting "50 grams".

(b) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to reflect the amendment made by subsection (a).

BUMPERS AMENDMENT NO. 3243

Mr. BUMPERS proposed an amendment to the bill, S. 2260, supra; follows:

At the appropriate place in title II of the bill, insert the following:

SEC. 2___. GRAND JURY RIGHT TO COUNSEL.

(a) IN GENERAL.—Rule 6 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (d), by inserting "and counsel for that witness (as provided in subdivision (h))" after "under examination"; and

(2) by adding at the end the following:

"(h) COUNSEL FOR GRAND JURY WITNESSES.—

"(1) IN GENERAL.—

"(A) RIGHT OF ASSISTANCE.—Each witness subpoenaed to appear and testify before a grand jury in a district court, or to produce books, papers, documents, or other objects before that grand jury, shall be allowed the assistance of counsel during such time as the witness is questioned in the grand jury room."

GRAHAM (AND DEWINE) AMENDMENT NO. 3244

Mr. GRAHAM (for himself and Mr. DEWINE) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. 2. . PUBLIC AIRCRAFT.

The flush sentence following subparagraph (B)(ii) of section 40102(37) of title 49, United States Code, is amended by striking "if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat" and inserting "if the operation is conducted for law enforcement, search and rescue, or responding to an imminent threat to property or natural resources".

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Thursday, July 23, 1998, 10:00 a.m., in SD-430 of the Senate Dirksen Building. The subject of the hearing is Presidential Nominees Ida Castro and Paul Igasaki to be Members of the Equal Employment Opportunity Commission. For further information, please call the committee, 202/224-5375.

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, August 4 at 9:30 a.m. at the Pendleton Convention Center located at 1601 Westgate, Pendleton, OR 97801.

The purpose of the hearing is to receive testimony on S. 2111, to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, to direct the Secretary of the Interior to appoint an advisory committee to make recommendations regarding activities under the memorandum of understanding, and for other purposes.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources. U.S. Senate, Washington, D.C. 20510. For further information, please contact Ms. Julia McCaul or Mr. Howard Useem at 202-224-7875.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, July 21, 1998, at 5:30 p.m. in closed session, to consider certain pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, July 21, 1998, to conduct a hearing on the monetary policy report to Congress pursuant to the Full Employment and Balanced Growth Act of 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, July 21, 1998, at 9:30 a.m. on discretionary spending at the Department of Transportation and Department of Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Tuesday, July 21, 1998 beginning at 10:30 a.m. in room SH-215, to conduct a markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on S. 766, Insurance Coverage of Contraceptives during the session of the Senate on Tuesday, July 21, 1998, at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, July 21, 1998, at 9:00 a.m., to hold a hearing on the nominations of:

Scott E. Thomas, of the District of Columbia, to be a member of the Federal Election Commission for a term expiring April 30, 2003 (reappointment);

David M. Mason, of Virginia, to be a member of the Federal Election Commission for a term expiring April 30, 2003, vice Trevor Alexander McClurg Potter, resigned;

Darryl R. Wold, of California, to be a member of the Federal Election Commission for a term expiring April 30, 2001, vice Joan D. Aikens, term expired; and,

Karl L. Sandstrom, of Washington, to be a member of the Federal Election Commission for a term expiring April 30, 2001, vice John Warren McGarry, term expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

150TH ANNIVERSARY OF THE SENECA FALLS CONVENTION

• Mrs. HUTCHISON. Mr. President, I rise to recognize and remember the importance of the previous two days in American history. July nineteenth and twentieth, 1998, mark the one hundred and fiftieth anniversary of the Seneca Falls Convention in Seneca Falls, New York. This gathering of American women and men began a movement in our nation that changed the role of women in this country and, ultimately, around the world. Because of the convention's tremendous impact on the American way of life, I joined Senator TORRICELLI and several other Senate colleagues in recently introducing a Senate resolution honoring the women's rights movement and saluting those who made it all happen. Today I speak in honor of this occasion.

Women's struggle for equality had very humble beginnings. Elizabeth Cady Stanton, a housewife and mother of three sons, and Lucretia Mott, a Quaker teacher and staunch abolitionist, were ejected from the 1840 World Anti-Slavery Convention in London simply because they were women. Outraged at such an injustice, they were compelled to call attention to the many freedoms denied to women, including the right to vote or hold elective office, the right to own property if married, the right to obtain a professional education and the basic right to protect oneself from an abusive spouse.

Mrs. Stanton and Miss Mott, along with Jane Hunt, Martha Coffin Wright and Mary Ann McClintock, called for a public convention to discuss the social, civil and religious rights of women. The first meeting of the women's rights movement convened at the Wesleyan Methodist Chapel in Seneca

Falls, New York. Over 300 men and women attended the two day conference, including Susan B. Anthony and Frederick Douglass.

The highlight of the convention was the reading of the Declaration of Sentiments, a document composed on Mrs. McClintock's kitchen table. The statement was based on the words of our Declaration of Independence, applying its self-evident truths to both males and females and declaring all men and women equal. The document even called for a woman's right to vote, a revolutionary idea at the time. In fact, while 68 women and 32 men signed the Declaration of Sentiments, more than 200 attendees refused to endorse such an outrageous notion. Today, it is difficult to imagine a democratic society that would not permit women to hold elective office, sign legal documents or attend the church of their choice, much less exercise the basic right to vote.

Elizabeth Cady Stanton, Lucretia Mott, and the other founders of the women's rights movement epitomized the strength of the American woman and exhibited the courage necessary to put an end to a great injustice. They understood the road before them would be long and hard. Little did they know, however, that it would be more than 70 years before women would be granted suffrage in the United States. Today the movement is symbolized by the unfinished marble carving of the Suffrage advocates now displayed in the Capitol Rotunda.

The calling of the Seneca Falls Convention and the passion of those involved forever changed the course of American history. All Americans should honor the efforts of these intrepid women and learn from their commitment to a cause in which they so deeply believed. Without the fortitude shown throughout this arduous struggle for equality, I could not be standing before you on the Senate floor today.●

RECOGNITION OF OZANAM IN KANSAS CITY, MISSOURI

● Mr. BOND. Mr. President, I rise today to recognize Ozanam in Kansas City, Missouri for its service to the community. For fifty years, Ozanam has been helping children and families in turmoil. Ozanam facility and staff help children reach their full potential and become productive members of society.

Ozanam began in the home of Mr. Al Allen, a Catholic Welfare Staff member, who after noticing the lack of help for emotionally disturbed adolescents, took it upon himself to bring six boys into his own home to give them long-term care, education and guidance. However, in just a year's short time, the need for a larger facility became apparent. Presently, the agency occupies 95 acres including two dormitories, a campus group home, a special education center that contains vocational training classrooms, indoor and outdoor recreation facilities and a spiritual life center.

During its existence, Ozanam has had some outstanding staff and administration to help the more than 4,000 children who have stayed there. Paul Gemeinhardt, President, Judith Hart, Senior Vice President of Development and Doug Zimmerman, Senior Vice President of Agency Operations, deserve special recognition for their undying commitment and service to Ozanam.

I commend the staff of Ozanam for their untiring dedication to helping children and their families in their time of need. I join the many in Missouri who thank Ozanam for its good work and continuing efforts to better the community. Congratulations for fifty years of service.●

THE U.S.S. "CONSTITUTION"

● Mr. KERRY. Mr. President, I would like to take this opportunity to pay tribute to a pillar of American history, a symbol of the proud sacrifices that forced the birth of a nation, and which makes its home in Massachusetts. I speak of course of the vessel that carried into battle the hopes of the early republic for freedom and a lasting independence, the ship that generation upon generation of schoolchildren have come to know as "Old Ironsides"—the U.S.S. *Constitution*.

Two hundred and four years ago, six frigates were constructed for the United States Navy. One ship remains to this day to symbolize the strength and endurance that lies at the heart of this country's experiment in democratic ideals. The U.S.S. *Constitution*—docked in historic Charlestown Navy Yard in Boston—is a living monument to our proud history and to the values which endure in this country.

Like the Constitution written in Philadelphia that unified so many voices bound by a common spirit, this frigate itself carries in its mighty structure materials from all the original states of the union. Built by Colonel George Claghorn at Edmond Hartt's shipyard in Boston's North End, its hull of live oak, red cedar, white oak and pitch pine come from as far north as the deep woods of Maine and as far south as the forests of South Carolina and Georgia. The masts come from Maine. South Carolina pine gave the *Constitution* its decks, and canvas from Rhode Island formed the sails that pushed it on its historic journey. New Jersey contributed its keel and cannon balls, and the gun carriages and anchors came from Massachusetts tradespeople. We must never forget that it was Boston's Paul Revere, among the strongest voices in the chorus of revolution, who provided the spikes and copper sheathing that fortified the ship in battle. The U.S.S. *Constitution* belongs to all of us, from every state—and it belongs to every one around the world who believes in freedom.

Although this mighty ship was officially retired from naval duty in 1881, it continues to remind us of the work ahead of us in making the world safe for those who dare to dream, who dare to give voice to new ideas. The U.S.S. *Constitution* is launched into a new battle each time it reminds us of the full measure of sacrifice that our love of freedom demand for its protection. For hundreds of thousands of visitors each year, the U.S.S. *Constitution* is an inspiration—reminding us not just of where America has been, but where America is going. With its sails filled with the winds of freedom, I know the *Constitution* will take us all on endless journeys towards a new horizon, with our only boundaries lying in the limits of mankind's hopes for a better world.●

A NEW APPROACH FOR SOUTH ASIA

● Mr. MOYNIHAN. Mr. President. With the recent nuclear tests in South Asia, we are closer to nuclear war than we have been at any time since the Cuban Missile Crisis. This is a challenge which will compel the highest attention and the most subtle diplomacy. It requires extensive discussion with India and Pakistan. Deputy Secretary of State Strobe Talbott has begun such a dialogue. He is a gifted diplomat; however, I must emphasize that despite the considerable talents of the Deputy Secretary, this is an issue which requires the President's close involvement.

Congress must also be involved in addressing the issues which arise from the nuclear tests in South Asia. Legislation is required to lift the sanctions which these actions triggered. As such, I was pleased that my friend from Delaware, the ranking member of the Foreign Relations Committee, has set out a very sensible approach to South Asia. In a recent speech to the Carnegie Endowment for International Peace, Senator BIDEN challenges us to think anew about South Asia and calls on Congress to provide the President with the flexibility to negotiate in South Asia. This must entail providing him with broad authority to waive the present sanctions.

Most importantly, Senator BIDEN calls on the President to make "arrangements to go to India." This is paramount and I hope that the President will note this wise counsel. The actions which we take to address this volatile situation will have profound repercussion on the future of the subcontinent and the world. Such stakes require the President's active participation. We must talk with them as a

matter not just of their survival, but of our own as well. And we must stop supposing that sanctions are the answer. They are not.

Mr. President, I commend the remarks of our colleague, Senator BIDEN, and ask that they be printed in the RECORD.

The remarks follow:

A NEW APPROACH FOR SOUTH ASIA

(By Joseph R. Biden, Jr.)

Two months ago, in the Rajasthan desert, the Government of India claimed to have exploded five nuclear devices. Just 15 days later, the Government of Pakistan followed suit.

These events, in a few short weeks, expanded the acknowledged nuclear club by forty percent. They confront the United States, as well as the rest of the international community, with a monumental challenge, calling into question decades of U.S. non-proliferation policy.

Addressing this challenge—devising a new approach toward South Asia—is the subject of my remarks today. I thank you for the kind invitation.

We can expect the policy community to dramatically increase the time and attention it devotes to South Asia in the coming months, but you at the Carnegie Endowment can credibly claim that you were focusing on nuclear tensions long before it was even remotely fashionable. If only more had listened.

Clearly the tests by India and Pakistan require us to reexamine many aspects of our foreign and national security policy. We need to jettison some long-held beliefs that have acted as self-imposed constraints on U.S. policy.

Traditional approaches have not worked in the past in South Asia and will not work in the present situation. We need to think "outside the box." Most of all, our national interests throughout Asia dictate that we end our benign neglect of South Asia. Let me outline the shortcomings of our policy:

First, we have not acknowledged or addressed the fundamental sense of insecurity felt by both India and Pakistan since the end of the Cold War.

It is both facile and misleading to blame India's decision to test solely on the election of the BJP government. While the BJP certainly had a domestic political imperative to test, there was already a consensus across the political spectrum in India (except for the Communists) that India needed to conduct tests.

Why? Because of India's underlying perception in the aftermath of the Cold War that it was isolated, vulnerable, and not taken seriously.

For much of the Cold War, but especially after the 1971 Indo-Pakistan war, a measure of stability prevailed with China and the United States as key supporters of Pakistan, and the Soviet Union as the chief ally of India. This set of power relationships, combined with the threat of U.S. sanctions, restrained India and Pakistan from either testing or deploying nuclear weapons.

With the end of the Cold War and the demise of the Soviet Union, India could no longer rely on Moscow to balance China. In addition, India perceives us—falsely, I believe—as cultivating China as the regional hegemon that will preserve Asian stability.

The perceived U.S. preoccupation with China generates deep concern in New Delhi. Remember: China defeated India in the 1962 war and occupied several thousand square kilometers of disputed territory, a humiliation from which India has yet to recover. And a decade ago Indian and China massed several hundred thousand troops along their disputed border.

India's sense of strategic encirclement was heightened by reports of Chinese missile and nuclear transfers to Pakistan and budding Chinese military and security ties to Burma throughout the 1990s. Pakistan's test of a missile with a 1,000 kilometer range last April appeared to fit this pattern even though U.S. officials pointed to North Korea as the real source of the missile.

To put this in context, how would China feel if the tables were turned? What if India transferred its missiles to Vietnam, fighter planes to Mongolia, or a nuclear bomb design to Taiwan?

In such an environment, India felt that it was on its own and needed to demonstrate its capabilities, change the strategic landscape, in order to be taken more seriously by China, the United States, and other powers.

Pakistan's motives for testing are far less complicated than India's, but no less serious. Its strategic aim has been to resist Indian hegemony and guarantee its survival. Just as India's drive for a nuclear device can be traced to the defeat it suffered at the hands of China in 1962 and China's subsequent nuclear test in 1964, Pakistan's nuclear program can be traced to the role India played in splitting Pakistan into two with the creation of Bangladesh in 1971.

Many in Pakistan believe that India has never accepted the partition of the Indian subcontinent back in 1947. In Pakistan, therefore, nuclear capability is seen as the ultimate guarantor of its statehood.

It should come as no surprise, then, that Pakistan felt it needed to test to reestablish the deterrence that was disrupted by India's tests.

The end of the Cold War also made Pakistan feel abandoned and isolated. The United States no longer needed Pakistan to contain Soviet power. The Pressler amendment, invoked in 1990, banned aid to Pakistan and led directly to the erosion of Pakistan's conventional arsenal. This was seen as a betrayal, and has limited our influence with Pakistan ever since.

Unfortunately, we failed to acknowledge or act upon these fundamental shifts affecting Pakistan, just as we ignored the changes in India's security perceptions.

The second shortcoming of our South Asia policy is that its two chief elements—commerce and sanctions—are contradictory. We use sanctions to punish proliferation at the same time we are promoting commercial ties to take advantage of long-overdue market openings in both countries.

This policy is half right. The expansion of trade and investment ties with India and Pakistan will help these countries realize their full potential as well as benefit our own economic interests.

But the application of a one-size-fits-all non-proliferation policy is not appropriate to the special circumstances in South Asia. It lumps India and Pakistan with the far more dangerous outlaw states such as Libya and Iraq. It ignores the great lengths both countries have been prepared to go in order to achieve a basic sense of security. It presumes our influence is much greater than it actually is. Finally, it has prevented us from developing creative approaches to stabilize nuclear and missile development in the region.

Legislation initiated by the Congress, and signed by successive Presidents, is the basis for this rigid approach. I voted for that legislation. But when viewed in the context of Pakistan's and India's decision to test, I have to conclude that while our approach worked for many years, it is no longer working. It didn't stop them from testing, and it provides no incentive for India and Pakistan to take positive steps now.

To be sure, sanctions, when carefully calibrated, are a valuable policy tool. But I think it is clear that multilateral sanctions are more effective than unilateral sanctions. For example, the recent decision by the Group of Eight to delay indefinitely World Bank loans for India and Pakistan is more likely to produce results than unilateral U.S. action.

Given these defects in our policy, I believe we have no choice but to construct a new conceptual framework. Here are our options.

First, we could maintain the status quo. That is, we retain sanctions on India and Pakistan indefinitely, not recognize their nuclear status, and keep the fundamentals of our Asia policy unchanged. That would "keep the faith" on non-proliferation, but leave the underlying tensions in place and set the stage for the next, perhaps more dangerous, crisis.

A second approach that has been suggested is bolder: why not enlist India as a potential strategic ally against a "China threat?" But this runs the risk of becoming a self-fulfilling prophecy. China does not show signs of becoming hostile, nor are china's interests necessarily in conflict with our own. China prizes peace, stability, and economic development above all else.

I suggest a third approach. First, we should abandon our one-size-fits-all non-proliferation policy that we have applied to South Asia. We need to make distinctions between India, Israel, and Pakistan on the one hand, and nations that flout international norms such as Iraq and Libya on the other. The former should not concern us as much as the latter.

We are better served by bringing India and Pakistan into non-proliferation arrangements than by simply expecting them to foreswear their nuclear programs. In practical terms, this means that Congress should provide the President with the flexibility to negotiate a package that would lift sanctions in exchange for restraint by India and Pakistan in the areas that matter most to us.

We should seek agreement on five items: Formal commitments, preferably through adherence to the Comprehensive Test Ban Treaty, to refrain from further nuclear testing; pledges to enter negotiations for a Fissile Material Cut-off Treaty; Assurances that both countries will continue to refrain from spreading nuclear and missile technology; verifiable commitments not to deploy nuclear weapons on missiles, submarines, or aircraft; and a resumption of comprehensive bilateral discussions between India and Pakistan aimed at reducing tensions.

Such a package would serve our twin objectives of repairing the damage to the global non-proliferation regime, while not indefinitely isolating one-fifth of humanity.

Second, we need to distinguish between the relative importance of India and Pakistan to our interests over the long-term. Pakistan has been a good friend in the past, and we should not forget that. Moreover, a policy that dismisses Pakistan's legitimate security needs is bound to fail.

In fact, I believe that when we eventually ease the recently-imposed sanctions on India and Pakistan, we should simultaneously

waive the Pressler and Symington amendments, which restrict military and economic aid to Pakistan. The time has come to clear the decks in our relationship with Pakistan and end a policy which is perceived as discriminatory by Islamabad.

Nor should we overlook the important strategic role Pakistan could play as a secure transit route for the vast oil and gas reserves of the Caspian Basin, if, and this is a big if, peace can be secured in Afghanistan.

But American national interests in the new multipolar world dictate a different level of relations with India. Because of its growing economic and political weight, India will become a significant player in Asia and at the global level.

Already India has a middle class approaching 200 million people. If Indian governments make policy decisions that continue to unleash the latent potential of a talented population, then India will in time achieve the great power status to which it has long aspired.

Furthermore, if current trends hold, I believe that it is only natural for some form of rivalry to persist, if not intensify, between a growing India and China. Obviously, this would diminish security and threaten U.S. interests across Asia.

To prevent it, two things must be done. First, the Sino-Indian rivalry must be channeled into a healthy and constructive competition. Second, as both India and China achieve great power status, they will need to ease the anxieties of lesser powers.

To deal with this emerging regional picture we must move away from a focus on discrete bilateral relationships in Asia, and broaden our vision with a more integrated region-wide approach that regards South Asia as an integral part of Asia.

I propose a new framework that would give a "seat at the table" to all of the major players in Asia—India, China, Japan, Russia, and the United States. The emphasis should not be so much on formal structures, but on substance. The goal of this new framework would be to promote greater consultation and transparency among the countries.

The two emerging powers in this group—India and China—should be encouraged to set an example of cooperation for the rest of Asia. Such a system would also help them to realize that along with great power status comes responsibility. They must convince smaller nations of their peaceful intentions; they must act to strengthen, not weaken, international norms; and they must be seen as supporting an international environment that promotes peace and prosperity for all.

The "Gujral doctrine" demonstrates that India has the potential to mature into a responsible great power. As espoused by the previous Indian Prime Minister, this doctrine called for India, as the dominant power in South Asia, to go more than halfway in easing the fears of its smaller neighbors. I hope that the new Indian government will not stray from this far-sighted policy adopted by its predecessor.

The United States will need to take the lead in setting this regional security mechanism into motion. It could begin today with the President picking up the phone and speaking to the leaders of India, Russia, and Japan about the insights he gained from his trip to China and making arrangements to go to India.

Regular consultation among the key Asian countries could go a long way toward dispelling anxieties and suspicions. It would give everyone a stake in maintaining stability. It would provide an incentive for regional powers to work toward the settlement of long-standing disputes such as those over the Sino-Indian border, the Kurile islands, the Korean peninsula, and the South China Sea.

Key countries could be encouraged to share information about their armaments and defense budgets. If the other side does not have information, it will assume the worst. This inevitably leads to decisions and potentially dangerous cycles of action and reaction that are predicated upon assumptions that may be false.

Let me conclude. Devising a new approach to South Asia will not be easy, especially considering that it is being done in response to actions we don't approve of—namely, the Pakistan and Indian nuclear tests. But we have no choice, because the status quo is not an option.

We must show India and Pakistan that while we condemn their tests, we understand their security concerns and are willing to deal with them. If we don't devise a new approach, tensions will grow and South Asia's endemic security problems will undermine our long-term interests. And one thing is clear: South Asian security is becoming inseparable from Asian security.

And, of course, Asia matters to the United States. Despite recent economic setbacks, Asia will continue to be the most dynamic region into the next century. Our economic links will continue to grow. The regional balance of power and security perceptions will also undergo dramatic changes. I believe that we will need to find new mechanisms to preserve our security interests.

An effort that begins today in enlisting the key Asian powers in advancing our common objectives of peace, stability, and prosperity is one that could pay dividends far into the next century. Now is the time to begin.●

UNANIMOUS CONSENT AGREEMENT—S. 442

Mr. GREGG. I ask unanimous consent that S. 442 be referred to the Committee on Finance and, further, if the bill has not been reported by July 30, it be automatically discharged from the Finance Committee and placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1999

Mr. GREGG. I ask unanimous consent that the Senate insist on its amendment to H.R. 4112, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer appointed Mr. BENNETT, Mr. STEVENS, Mr. CRAIG, Mr. COCHRAN, Mr. DORGAN, Mrs. BOXER, and Mr. BYRD conferees on the part of the Senate.

ORDERS FOR WEDNESDAY, JULY 22, 1998

Mr. GREGG. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, July 22. I further ask that when the Senate reconvenes on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then resume consideration of S. 2260, the Commerce-State-Justice appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GREGG. For the information of all Senators, when the Senate reconvenes on Wednesday, there will be potentially two back-to-back votes beginning at 9:40 a.m. In addition, I ask unanimous consent that following the stacked votes, Senator SESSIONS be recognized to offer an amendment relative to juvenile justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 1432

Mr. GREGG. I understand there is a bill at the desk awaiting its second reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1432) to authorize a new trade and investment policy for sub-Saharan Africa.

Mr. GREGG. I object to further consideration of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. GREGG. The Senate will be in session late tomorrow in an effort to conclude the pending bill by the close of business tomorrow. Therefore, votes will occur throughout the day and into the evening on Wednesday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GREGG. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

Thereupon, the Senate, at 8:55 p.m., adjourned until Wednesday, July 22, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 21, 1998:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Thomasina V. Rogers, of Maryland, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2003, vice Velma Montoya, term expired.

CORPORATION FOR PUBLIC BROADCASTING

Ritajean Hartung Butterworth, of Washington, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2004. (Reappointment)

IN THE ARMY

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

COL. BRUCE W. PIERATT, xxx.

DEPARTMENT OF DEFENSE

Bernard Daniel Rostker, of Virginia, to be Under Secretary of the Army, vice Robert M. Walker.

DEPARTMENT OF STATE

John Melvin Yates, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Robert C. Randolph, of Washington, to be an Assistant Administrator of the Agency for International Development, vice Margaret V. W. Carpenter, resigned.

EXECUTIVE OFFICE OF THE PRESIDENT

Sylvia M. Mathews, of West Virginia, to be Deputy Director of the Office of Management and Budget, vice Jacob Joseph Lew.

DEPARTMENT OF JUSTICE

James A. Tassone, of Florida, to be United States Marshal for the Southern District of Florida for the term of four years, vice Daniel J. Horgan.

Scott Richard Lassar, of Illinois, to be United States Attorney for the Northern District of Illinois for the term of four years vice James B. Burns, resigned.

DEPARTMENT OF VETERANS AFFAIRS

Leigh A. Bradley, of Virginia, to be General Counsel, Department of Veterans Affairs, vice Mary Lou Keener, resigned.

WITHDRAWALS

Executive messages transmitted by the President to the Senate on July 21, 1998, withdrawing from further Senate consideration the following nominations:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

THOMASINA V. ROGERS, OF MARYLAND, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 27, 2001, VICE DANIEL GUTTMAN, WHICH WAS SENT TO THE SENATE ON JUNE 24, 1998.

DEPARTMENT OF DEFENSE

BERNARD DANIEL ROSTKER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE FREDERICK F. Y. PANG, RESIGNED, WHICH WAS SENT TO THE SENATE ON APRIL 2, 1998.